

Cite as 2023 Ark. App. 142
ARKANSAS COURT OF APPEALS

DIVISION I
No. CR-22-360

QUEBEC MIYA

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered March 8, 2023

APPEAL FROM THE JACKSON
COUNTY CIRCUIT COURT
[NO. 34CR-21-91]

HONORABLE ROB RATTON, JUDGE

AFFIRMED

MIKE MURPHY, Judge

Quebec Miya appeals an order of the Jackson County Circuit Court revoking his suspended imposition of sentence (SIS) and sentencing him to thirty two years' incarceration in the Arkansas Department of Correction. On appeal, Miya argues that the circuit court erred when it failed to explain its reasoning for sentencing him to consecutive terms of imprisonment instead of ordering that they run concurrently. We affirm.

On September 28, 2021, Miya pleaded guilty to criminal use of prohibited weapons, possession of a controlled substance with intent to deliver, tampering with evidence, and fleeing. He was sentenced to 120 months' SIS and two 60-month periods of supervised probation.

On December 27, the State filed a petition to revoke Miya's SIS, alleging that he had violated the conditions of the SIS by testing positive for marijuana and participating in a

shooting. An amended petition later added that he also had failed to report on three occasions. A hearing was held on the petitions on February 14, 2022, after which the court found that Miya had violated the conditions of his SIS and probation. He was sentenced to 240 months of imprisonment for criminal use of prohibited weapons, 72 months of imprisonment for possession of a Schedule VI controlled substance with the purpose to deliver, and 72 months of imprisonment for tampering with physical evidence. The court ordered Miya to serve each sentence consecutively for a total of 384 months of imprisonment. On appeal, Miya's sole argument is that the postrevocation sentences should be vacated and remanded for resentencing because the court offered no explanation for ordering that the sentences run consecutively rather than concurrently.

Whether sentences should run consecutively or concurrently is a matter committed to the discretion of the circuit court, and we will not reverse a sentencing decision unless the circuit court abuses its sentencing discretion. *Doster v. State*, 2020 Ark. App. 456, at 3, 610 S.W.3d 685, 686–87. A sentencing court's failure to state its reasons for consecutive sentences, by itself, is not sufficient proof that it abused its discretion in ordering a defendant to serve his sentences consecutively. *Throneberry v. State*, 2009 Ark. 507, at 7–8, 342 S.W.3d at 272–73.

The appellant concedes that the circuit court did not, by failing to state any reasoning behind its sentencing decision, do anything it was not allowed to do pursuant to precedent. He does, however, make a thoughtful argument that the general rule that a circuit court is allowed to order such a sentence without articulating a reason opens the door for a court to

abuse its discretion by making arbitrary, capricious, or discriminatory sentencing decisions, which are hidden from view and violate due-process rights. As the appellant explains:

When a sentencing court orders a defendant to serve what would otherwise be concurrent sentences consecutively, that court should be required to explain its reasoning, if for no other reason, to enable an appellate court to determine whether the evidence in the record supports the sentence, otherwise, an appellate court cannot conduct a meaningful review of the sentencing decision.

The appellant's arguments are, unfortunately, not preserved. At sentencing, counsel did not object, ask for additional findings by the court, or otherwise make these arguments to the court such that they might be ruled on. In *Penny v. State*, 2021 Ark. App. 30, we held that when the appellant raised no objection to the court's ruling that his sentences run consecutively, we would not address the argument on appeal. An alleged error must be called to the attention of the circuit court by timely objection or inquiry so that a court may have opportunity to correct the error. *Id.* at 3.

Affirmed.

VIRDEN and HIXSON, JJ., agree.

Terrence Cain, for appellant.

Leslie Rutledge, Att'y Gen., by: Rebecca Kane, Ass't Att'y Gen., for appellee.