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Minn. Stat. § 480A.08, subd. 3 (2008).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A08-1772**

State of Minnesota,
Respondent,

vs.

Otis Elliot Woodson,
Appellant.

**Filed December 15, 2009
Affirmed; motion denied
Klaphake, Judge**

Ramsey County District Court
File No. 62-K9-08-855

Lori Swanson, Attorney General, 1800 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101-2134; and

Susan Gaertner, Ramsey County Attorney, Mitchell L. Rothman, Assistant County Attorney, 50 West Kellogg Blvd., Suite 315, St. Paul, MN 55102 (for respondent)

Marie L. Wolf, Interim Chief Appellate Public Defender, Bradford S. Delapena, Assistant Public Defender, 540 Fairview Avenue North, Suite 300, St. Paul, MN 55104 (for appellant)

Considered and decided by Klaphake, Presiding Judge; Halbrooks, Judge; and Bjorkman, Judge.

UNPUBLISHED OPINION

KLAPHAKE, Judge

Appellant Otis Elliot Woodson challenges the district court's imposition of consecutive sentences for his convictions of violation of a domestic abuse no-contact order, Minn. Stat. § 518B.01, subd. 22(d)(1) (Supp. 2007) (violation within ten years of two or more previous violations) and domestic assault, Minn. Stat. § 609.2242, subd. 4 (2006) (violation within ten years of two or more previous violations). Because the district court did not abuse its discretion by imposing permissive consecutive sentences, we affirm.

DECISION

We will reverse the district court's imposition of consecutive sentences for an abuse of discretion. *State v. McLaughlin*, 725 N.W.2d 703, 715 (Minn. 2007). The district court sentenced appellant to consecutive sentences, which were permissive under Minn. Sent. Guidelines II.F.2.b (2008). The district court abuses its discretion if consecutive sentencing is "disproportionate" or "unfairly exaggerates the criminality of the defendant's conduct." *State v. Hough*, 585 N.W.2d 393, 397 (Minn. 1998). "A trial judge sits with a unique perspective on all stages of a case, including sentencing, and the trial judge is in the best position to evaluate the offender's conduct and weigh sentencing options." *Id.* Appellant has the burden of showing that consecutive sentencing exaggerates the criminality of his conduct. *Id.* at 398.

Appellant suggests that the sentence is disproportionate because the victim was not badly injured and the victim had permitted him to violate the no-contact order.

Weighing against this assertion are various other factors: (1) the victim's seven-year old son was present and frightened; (2) the victim's 12-year old daughter, who also had a no-contact order against appellant, was initially present but quickly left; and (3) appellant failed to take any responsibility for his conduct. In addition, appellant was still on probation for similar offenses against the same victim. We conclude that the district court did not abuse its discretion by imposing permissive consecutive sentences.

The state moved this court to take judicial notice of appellant's previous conviction and sentence. The previous conviction and sentence are a part of the record before this court. *See* Minn. R. Civ. App. P. 110.01 ("The papers filed in the trial court, the exhibits, and the transcript of the proceedings, if any, shall constitute the record on appeal in all cases."). The state's motion is therefore unnecessary and is denied.

Affirmed; motion denied.