IN THE COURT OF APPEALS OF IOWA

No. 23-0961
Filed March 27, 2024

STATE OF IOWA,
Plaintiff-Appellee,

vs.

CHAMPAYNE RENEE SANDIFER-JACKSON,
Defendant-Appellant.

Appeal from the Iowa District Court for Dubuque County, Monica Zrinyi Ackley, Judge.

A criminal defendant challenges her sentence and whether her plea was governed by Iowa Rule of Criminal Procedure 2.10. **AFFIRMED.**

Jamie Hunter of Dickey, Campbell & Sahag Law Firm, PLC, Des Moines, for appellant.

Brenna Bird, Attorney General, and Bridget A. Chambers, Assistant Attorney General, for appellee.

Considered by Greer, P.J., and Ahlers and Buller, JJ.

BULLER, Judge.

Champayne Renee Sandifer-Jackson, a mother of three, left her six-month-old and two-year-old children unattended in the bathtub when she went outside to chat with a neighbor. When she returned, her six-month-old son was flipped over, face-down in the tub, and her two-year-old child was standing nearby. The six-month-old child was "purple and pale" and not breathing. Sandifer-Jackson gave the child mouth-to-mouth and attempted cardiopulmonary resuscitation (CPR). Water was "gushing" out of the child's mouth. Sandifer-Jackson ran back outside and asked the neighbor to call 911.

First responders found the six-month-old child "cold to the touch," without a pulse, and not breathing. Paramedics intubated the child in the ambulance and established a heart rhythm. They then airlifted the child to Iowa City, where physicians determined he had "sustained serious injuries that would need significant care." Those injuries "would have life-lasting consequences." Sandifer-Jackson told medical providers it was her fault and she felt guilty.

Those medical providers took hair samples from Sandifer-Jackson's three children. The six-month-old tested positive for amphetamines, methylenedioxymethamphetamine (more commonly known as "MDMA," ecstasy, or "molly"), cocaine, cannabinoids, and tetrahydrocannabinol (commonly known as "THC"). Her two other children were both positive for cocaine and THC. Sandifer-Jackson told investigators she had no idea how the children were exposed to illegal substances, but police found marijuana and drug paraphernalia in Sandifer-Jackson's home.

The Dubuque County Attorney charged Sandifer-Jackson with six indictable offenses:

I. Neglect or abandonment of a dependent person, a class "C" felony in violation of Iowa Code section 726.3 (2022);
II. Child endangerment causing serious injury, a class "C" felony in violation of Iowa Code section 726.6(1)(a) and (6);
III. Child endangerment, an aggravated misdemeanor in violation of Iowa Code section 726.6(1)(a) and (8);
IV. Child endangerment, an aggravated misdemeanor in violation of Iowa Code section 726.6(1)(a) and (8);
V. Child endangerment, an aggravated misdemeanor in violation of Iowa Code section 726.6(1)(a) and (8); and
VI. Possession of a controlled substance—marijuana, a serious misdemeanor in violation of Iowa Code section 124.401(5).

By written agreement, Sandifer-Jackson agreed to plead guilty to counts I, III, IV, and V. In exchange, the State agreed to dismiss counts II and VI and recommend concurrent suspended sentences and probation. The final line of the written plea agreement referenced the "binding/non-binding" nature of the plea, apparently with the intent the parties circle one or the other—but neither was circled.

I. Was the Sentencing Court Bound to Sentence the Defendant to Probation?

Sandifer-Jackson asserts the district court was bound to suspend her sentence and place her on probation. In her reply brief, she clarifies she does not assert the written plea bound the court but instead claims the statements or conduct of the judge at the plea hearing converted the recommendations in the plea agreement into a binding plea under Iowa Rule of Criminal Procedure 2.10.

As a preliminary matter, the State contests error preservation on the Rule 2.10 challenge. In one of our unpublished decisions, we found such a claim could be pursued on direct appeal without preserving it with a motion in arrest of

judgment—at least for a plea that was actually governed by Rule 2.10. *See State v. Hoffman*, No. 21-1134, 2022 WL 468739, at *3 (Iowa Ct. App. Feb. 16, 2022) (noting "the guilty plea was quite clearly conditioned on the district court's concurrence"). We recognize the situation here is a bit different, as we conclude the plea was not binding. But, given our resolution of the issue on the merits, we assume without deciding the issue is before us and leave the error-preservation question for another day.

On the merits, we do not agree with Sandifer-Jackson that her plea was conditioned on the court's acceptance of the sentencing recommendation. At the plea hearing, the court correctly recited the agreement and accepted the plea without agreeing to any limitations on sentencing. We know this because the court's comments referred to "contested sentencing" and "open sentencing for the four counts." There would be no contested sentencing if the court was bound to impose suspended sentences and probation, nor would the colloquial reference to "open sentencing" make sense if the parties did not have the opportunity to offer recommendations that could impact the outcome. Our understanding of the plea hearing is confirmed by the order accepting the plea, which makes no mention of Rule 2.10 or that the court was bound in any way. And this is further corroborated by a colloquy between Sandifer-Jackson and the plea court. Rather than informing her the court would "adopt the disposition provided for in the agreement or another disposition more favorable" to her (as required by Rule 2.10(3)(a) for a binding plea), the court asked Sandifer-Jackson if she understood that "the range of punishment . . . could include serving the prison time or being on probation or being on probation or without the residential facility placements" and she

responded, "yes." Thus the sentencing court was not bound to follow the parties' recommendations.

II. Did the District Court Abuse Its Discretion?

At sentencing, a different judge presided. Sandifer-Jackson admits the county attorney complied with the plea agreement and recommended suspended sentences with concurrent terms. Nonetheless, the court sentenced Sandifer-Jackson to prison—with the aggravated misdemeanors concurrent to each other and consecutive to the felony for a total of twelve years—and gave the following explanation of its reasons:

> All right. In considering all of the impact of the plea negotiations, what was stated in the [presentence investigation report], as well as the arguments received here today, the most considering things for me under the statutory construction are your age, your sporadic employment, your continued drug use until just recently, the fact that your children have tested positive, the fact that your children have been involved in the Department of Human Services' assistance for quite some time, I find that there is a considerable danger to them and also the community for you to continue to remain in the community. The nature of this offense is the most significant thing here for me, as well as the punitive nature that goes along with the sentencing that I am obligated to review. I don't find a suspended sentence at all appropriate for what happened here. Not at all. I can't even justify it for half a second. And that's all I'll say.
>
> So I am ordering that you serve a [ten]-year term for Count I, the child endangerment, the class "C" felony. You will serve [two] years for the aggravated misdemeanors consecutive to that because of the nature of the offenses and the fear that this judge has for the community and your continued lack of idealism about being a parent and how to care for your children appropriately, because of the years that you have not done so. I don't find them to be safe to be placed within your care.

Sandifer-Jackson asks us to reverse her sentence and remand for re-sentencing before a new judge. Our review is shaped by the supreme court's directive that "the decision of the district court to impose a particular sentence

within the statutory limits is cloaked with a strong presumption in its favor, and will only be overturned for an abuse of discretion or the consideration of inappropriate matters." *State v. Formaro*, 638 N.W.2d 720, 724 (Iowa 2002). "[O]ur task on appeal is not to second guess the decision made by the district court, but to determine if it was unreasonable or based on untenable grounds." *Id.* at 725.

We cannot say the district court's sentencing rationale was clearly unreasonable. The nature of the offense and protection of the community are proper considerations at sentencing, and the sentencing court considered these factors most persuasive. *See id.* As in most cases, the district court likely would have been justified in imposing any sentence within the statutory range. The reality that some judges would impose different sentences on the same facts is inherent in our criminal justice system, as "[j]udicial discretion imparts the power to act within legal parameters according to the dictates of a judge's own conscience, uncontrolled by the judgment of others." *Id.* Sandifer-Jackson's disagreement with the sentence imposed is no basis for a reversal.

We engage in more detail with three specific claims Sandifer-Jackson makes in her appellate brief. First, she complains the sentencing court did not specifically consider positive aspects of her time on pre-trial release as potentially suggesting she had rehabilitated. But "the district court need not specifically state every possible sentencing factor," so long as the reasons given permit appellate review. *State v. Mathews*, No. 17-0519, 2018 WL 2084831, at *2 (Iowa Ct. App. May 2, 2018); *accord State v. Thacker*, 862 N.W.2d 402, 408 (Iowa 2015).

Second, Sandifer-Jackson criticizes the district court describing her as "just recently" ceasing drug use. She notes that her last positive drug test (indicating

marijuana use) was in November—six months before her May sentencing hearing and before testing negative for substances in February. We read "recently" as a relative term, and we discern no reversible error in that remark.

Finally, Sandifer-Jackson argues the sentencing court did not give sufficient reasons for imposing a partially consecutive sentence. But the verbatim sentencing record we quoted above identifies the nature of the offenses and danger posed to the community as the bases for consecutive sentences. Sandifer-Jackson cites no authority suggesting these reasons were improper, and we are aware of none. *See State v. Hill*, 878 N.W.2d 269, 275 (Iowa 2016) (noting that, when imposing consecutive sentences, "the court may rely on the same reasons for imposing a sentence of incarceration").

We conclude by expressly disregarding two lines of improper argument made by Sandifer-Jackson. She uses hyperlinks in her brief, attempting to inject outside-the-record facts into our review. We do not consider any outside-the-record evidence. *See* Iowa R. App. P. 6.801 (defining the record on appeal); *In re Marriage of Keith*, 513 N.W.2d 769, 771 (Iowa Ct. App. 1994) ("We are limited to the record before us and any matters outside the record on appeal are disregarded."). She also criticizes the State for taking what she calls inconsistent positions at sentencing (where the county attorney recommended suspended sentences) and on appeal (where the attorney general defended the imposition of a prison sentence). The attorney general and county attorney are separately elected officials, and the attorney general is ordinarily bound by statute to defend judgments obtained in the district court absent an exercise of her discretion to do otherwise. *Compare* Iowa Code § 13.2 (attorney general's duties), *with id.*

§ 331.756 (county attorney's duties). *See generally* Neal Devins & Saikrishna Bangalore Prakash, *Fifty States, Fifty Attorneys General, and Fifty Approaches to the Duty to Defend*, 124 Yale L.J. 2100, 2105–06 (2015) (on differing approaches to the duty to defend in different states). We decline Sandifer-Jackson's request that we interpret these elected offices' allegedly inconsistent positions as informing our review in any way. Weighing the attorney general's statutory duty on appeal against the nearly unfettered discretion afforded county attorneys in the district court would exceed our purview and unfairly impinge on the work of the political branches of government. *Cf. State v. Iowa Dist. Ct.*, 568 N.W.2d 505, 508 (Iowa 1997) (on separation of powers and how "judicial oversight" of prosecutorial discretion is "not appropriate").

Sandifer-Jackson has not shown there was a binding Rule 2.10 plea or that the sentence imposed was an abuse of discretion.

AFFIRMED.