

IN THE COURT OF APPEALS OF IOWA

No. 0-566 / 10-0035
Filed August 25, 2010

STATE OF IOWA,
Plaintiff-Appellee,

vs.

JAMES LEE KLOPPENBURG,
Defendant-Appellant.

Appeal from the Iowa District Court for Polk County, Robert J. Blink,
Judge.

Appellant appeals from his conviction and sentence for possession of a
controlled substance. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Patricia Reynolds, Assistant
Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Linda Hines, Assistant Attorney
General, John P. Sarcone, County Attorney, and Joseph Crisp, Assistant County
Attorney, for appellee.

Considered by Vogel, P.J., and Doyle and Mansfield, JJ. Tabor, J., takes
no part.

VOGEL, P.J.

James Kloppenburg plead guilty to possession of a controlled substance, marijuana, with intent to deliver under Iowa Code section 124.401(1)(d) (2009). The district court sentenced him to a term of imprisonment not to exceed five years. In addition, the district court revoked his probation for an earlier operating while intoxicated (OWI) conviction and imposed the sentence of 365¹ days on the OWI offense, to be served consecutive to the five-year term on the drug conviction. In imposing the sentences, the court reasoned:

The courts have been unbelievably patient with you, and you have wasted each and every opportunity. Within months of the sentencing in your OWI, you're into drugs. Now this case is called the State of Iowa versus Kloppenburg. That's because this isn't just about you. This is about the people whose welfare you have threatened. The people you could have killed when you drove your car drunk. It is about all of the children whose parents don't want someone like you providing drugs. It's not just about Mr. Kloppenburg.

Your record does not justify probation, Mr. Kloppenburg, and based on your record the Court concludes that your probation in the OWI should be revoked as well. You are sentenced to serve a term not to exceed five years in [the drug conviction]. . . .

Your probation in the OWI case is revoked. You are sentenced to serve a term not more than one year, all of which was suspended except for the three days. You were given credit for one day. That means you have 362 days to serve on the OWI. That sentence will be run consecutive to the sentencing in the drug case. That means one after the other.

Kloppenburg asserts the district court did not provide a reason for running the sentences consecutive to each other, and asks that we vacate his sentence and remand to the district court for resentencing. We review a sentencing decision for errors at law; but when a sentence is within the statutory limits, it will

¹ With credit for time served, Kloppenburg had 362 days remaining to serve on his OWI sentence.

only be set aside for an abuse of discretion. *State v. Valin*, 724 N.W.2d 440, 444 (Iowa 2006). We require a demonstration of reasoning behind choosing a particular sentence, including the reason for imposing consecutive sentences, so that we have the ability to review the discretion exercised by the district court. *State v. Lumadue*, 622 N.W.2d 302, 304 (Iowa 2001); *State v. Garrow*, 480 N.W.2d 256, 259-60 (Iowa 1992) (explaining that even “terse and succinct” reasoning for choosing a particular sentence does not prevent our review of the district court’s exercise of sentencing discretion).

In this case, the district court was very clear as to why probation was not a wise sentencing choice for the drug conviction, and also why Kloppenburg’s probation was being revoked on the OWI conviction. Discerning why the sentences are to run consecutive to each other does not leave this court scratching its collective head, as we are more than able to see the district court’s exercise of its considerable discretion from the overall sentencing plan. See *State v. Delaney*, 526 N.W.2d 170, 178 (Iowa Ct. App. 1994).

We agree with the district court and affirm the conviction and sentences.

AFFIRMED.