

**IN THE COURT OF APPEALS OF IOWA**

No. 1-697 / 10-1491  
Filed October 5, 2011

**STATE OF IOWA,**  
Plaintiff-Appellee,

**vs.**

**CHRISTOPHER WADE MORITZ,**  
Defendant-Appellant.

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Appeal from the Iowa District Court for Polk County, Carla Schemmel,  
Judge.

Defendant appeals his conviction and sentence claiming the district court  
erred in failing to give specific reasons for imposing consecutive sentences.

**AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Bradley M. Bender,  
Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Sheryl A. Soich, Assistant Attorney  
General, Peter Blink and Kevin Bell, Student Interns, John Sarcone, County  
Attorney, and Steve Foritano, Assistant County Attorney, for appellant.

Considered by Sackett, C.J., and Vaitheswaran and Tabor, JJ.

**SACKETT, C.J.**

Defendant, Christopher Wade Moritz, appeals his conviction and sentence on five counts of theft in the first degree, in violation of Iowa Code sections 714.1 and 714.2(1) (2009). Moritz claims the district court erred by failing to give specific reasons for imposing consecutive sentences. Because we find the district court provided specific reasons for the imposition of consecutive sentences, we affirm.

**I. BACKGROUND AND PROCEEDINGS.** On November 12, 2009, the State charged Moritz with five counts of theft in the first degree arising out of his possession of three stolen pickup trucks, one stolen ATV, and one stolen gas scrubber system. Moritz's case proceeded to a jury trial on July 12, 2010, and the jury returned a verdict of guilty on all counts.

Sentencing was set for August 12, 2010. After reviewing and correcting the presentence investigation report, and hearing arguments from both counsel and Moritz, the court sentenced Moritz to a ten-year indeterminate term of imprisonment on each of the five counts. It ordered his incarceration on counts I and II to run consecutive to each other, and ordered counts III, IV, and V to run concurrent with each other and concurrent with counts I and II. Thus, the total term of incarceration was twenty years.

During the sentencing the court made the following statements.

THE COURT: I told counsel in chambers that I wanted to hear everything that was presented, and then I would decide what the sentence should be, and then I will have a sentencing order prepared and brought back up here, and I will do the formal sentencing. But this case troubles me. It troubles me a lot. It troubles me because there was an inordinately huge amount of

property that was in your possession, Mr. Moritz, and you have been found guilty of stealing that property and having it in your possession. I do think people were harmed by that. Not physical harm, but I believe there was harm.

I am also concerned even if with accepting the changes made in the presentence investigation report, there was a lesser charge in Texas that you were on probation for. This is certainly a huge increase in that charge and that a lot more has been done in this case than was done in this case. I see an escalation in your activities.

I am going to sentence you to five years for each count, consecutively. I am not going to grant probation in this case. If you will go down and prepare the sentencing order.

MR. BELL: Each count carries a maximum sentence of ten years.

THE COURT: I can't give five years for each?

MR. FORITANO: No.

THE COURT: Can I order them -- let me think a minute.

MR. BELL: If the court wishes to give him less than 50 years, it has to give in increments of ten.

THE COURT: That does help. I will give him ten years for two counts, which is 20 years total, consecutive, and no probation. Are you filling out the order?

MR. FORITANO: I am, Your Honor.

THE COURT: Mr. Moritz, I have been impressed reading what you have done. You are a bright man. You need to use those energies productively for society, not to harm society. But until you learn to do that, you are a danger to society.

I have to balance your ability to rehabilitate yourself, which I hope this will help against the danger that you cause society. That is what I have done considering all the elements that I am required to consider and those mentioned by your counsel as well.

THE COURT: Granting probation in this matter is denied because probation would not provide reasonable protection for the public and maximum opportunity for rehabilitation of the defendant. The court has further considered the age of the defendant, as well as the defendant's prior criminal record, and that probation would lessen the seriousness of these offenses.

**II. SCOPE OF REVIEW.** Our review of the district court's imposition of a sentence is for an abuse of discretion. *State v. Barnes*, 791 N.W.2d 817, 827 (Iowa 2010). An abuse of discretion is found when the district court

“exercises its discretion on grounds clearly untenable or to an extent clearly unreasonable.” *State v. Evans*, 672 N.W.2d 328, 331 (Iowa 2003).

**III. CONSECUTIVE SENTENCES.** Iowa Rule of Criminal Procedure 2.23(3) provides that the court shall state on the record the reasons for selecting the particular sentence. The reasons do not need be detailed, but “at least a cursory explanation must be provided to allow appellate review of the trial court’s discretionary action.” *State v. Jacobs*, 607 N.W.2d 679, 690 (Iowa 2000). The explanation given must include reasons for imposing consecutive sentences. *Barnes*, 791 N.W.2d at 827. It is not a requirement that the court specifically tie the reasons given to the imposition of consecutive sentences, as we may find the reasons were expressed as part of the overall sentencing plan. *State v. Delaney*, 526 N.W.2d 170, 178 (Iowa Ct. App. 1994). As a result we look to the entire record to find the district court’s reasons for the sentence it imposed. *Id.*

Moritz claims that while the court provided sufficient reasons to support its decision to impose a term of incarceration rather than probation, it did not provide any reason for its decision to impose consecutive sentences. He asserts the district court did not specifically link any of its reasoning to the imposition of consecutive sentences. However, as stated above, the district court does not need to specifically tie the reasons given to the imposition of consecutive sentences. *Id.* We conclude in this case that the reasons for the imposition of consecutive sentences were given as part of the overall sentencing plan.

The district court stated it was troubled by the large amount of stolen property Moritz had in his possession and found Moritz’s actions caused harm to

the public. It considered the fact that Moritz was on probation for a lesser charge in Texas, and the current convictions showed an escalation in his criminal activities. It concluded until Moritz learned to use his energies to benefit society, he was a danger to society. While the court did go on to use some of these same reasons to justify denying Moritz's request for probation, the reasons given for imposing consecutive sentence may be the same reasons for imposing incarceration rather than probation. *State v. Jason*, 779 N.W.2d 66, 77 (Iowa Ct. App. 2009).

We find the district court gave specific reasons for imposing consecutive sentences; and therefore, affirm the district court.

**AFFIRMED.**