IN THE COURT OF APPEALS OF IOWA

No. 2-298 / 11-1207
Filed May 9, 2012

STATE OF IOWA,
Plaintiff-Appellee,

vs.

NICHOLAS JAMES JAMES,
Defendant-Appellant.

Appeal from the Iowa District Court for Webster County, Kurt L. Wilke (plea) and Joel E. Swanson (sentencing), Judges.

Nicholas James appeals the sentences imposed on guilty pleas of assaulting a correctional officer with intent to inflict serious injury, willful injury causing serious injury, and interference with official acts inflicting bodily injury. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Dennis D. Hendrickson, Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Linda J. Hines, Assistant Attorney General, and Ricki N. Osborn, County Attorney, for appellee.

Considered by Eisenhauer, C.J., and Potterfield and Mullins, JJ.

MULLINS, J.

Nicholas James appeals the sentence imposed following his guilty pleas to assaulting a correctional officer with intent to inflict serious injury, willful injury causing serious injury, and interference with official acts inflicting bodily injury. *See* Iowa Code §§ 708.3A(1), 708.4(1), 719.1(2) (2009). James argues the district court erred by failing to state on the record its reasons for his sentence. We affirm.

I. Background Facts and Proceedings.

On August 4, 2010, the State charged James by trial information with nine felony counts arising from an incident at the Fort Dodge Correctional Facility. The charges included three counts of assaulting a correctional officer with intent to inflict serious injury (class "D" felonies), two counts of willful injury causing bodily injury (class "D" felonies), one count willful injury causing serious injury (a class "C" felony), and three counts of interference with official acts inflicting bodily injury (class "D" felonies). *Id*.

The State and James eventually reached a plea agreement. The State agreed to dismiss the remaining charges upon James's pleading guilty to one count of assaulting a correctional officer with intent to inflict serious injury, one count of willful injury causing serious injury, and one count of interference with official acts inflicting bodily injury. The parties further agreed to make a joint sentencing recommendation that the three sentences run consecutively to each other, for a total of twenty years, and consecutive to the sentences James was already serving, and that any fines imposed be suspended.

A sentencing hearing was held on July 5, 2011. Before announcing the sentence, the district court stated, "The court having adopted what has previously been done has been provided with the sentencing order that both the State and the defense has agreed upon." The district court then sentenced James, in accordance with the parties' joint sentencing recommendation, to five years of incarceration on the assault of a correctional officer with intent to inflict serious injury count, ten years of incarceration on the willful injury causing serious injury count, and five years of incarceration on the interference with official acts inflicting bodily injury count. The counts were ordered to run consecutively to each other and consecutive to the sentences James was already serving. The fines and surcharges were suspended, and the remaining counts were dismissed.

James now appeals, arguing the district court erred by not stating on the record its reason for imposing the particular sentence in this case.

II. Standard of Review.

We review the record to determine if the district court abused its discretion in failing to state reasons for the sentence imposed. *State v. Mudra*, 532 N.W.2d 765, 766 (Iowa 1995). An abuse of discretion may only be found where a court acts on grounds clearly untenable or to an extent clearly unreasonable. *Id*.

III. Analysis.

A sentencing court is required to "state on the record its reason for selecting the particular sentence." Iowa R. Crim. P. 2.23(3)(d). The "ultimate purpose" of this requirement is "to give appellate courts the opportunity to review

the discretionary nature of sentencing." *State v. Alloway*, 707 N.W.2d 582, 584 (Iowa 2006), *overruled on other grounds by State v. Johnson*, 784 N.W.2d 192, 198 (Iowa 2010). However, when the court has no discretion in sentencing, any error in failing to state sentencing reasons is harmless. *See State v. Cason*, 532 N.W.2d 755, 756 (Iowa 1995) (trial court accepted guilty plea pursuant to a plea agreement which the court followed at time of imposing sentence); *State v. Snyder*, 336 N.W.2d 728, 729 (Iowa 1983) (at time of guilty plea, trial court agreed to be bound at the time of sentencing to the terms of the plea agreement); *State v. Matlock*, 304 N.W.2d 226, 228 (Iowa 1981) (trial court had no discretion to suspend or defer sentence for a forcible felony).

At the time of accepting a guilty plea that is tendered pursuant to a plea agreement, the court may accept the plea agreement, may announce that it does not intend to be bound by the agreement, or may inform the parties that it intends to defer the decision as to whether to accept the agreement. Iowa R. Crim. P. 2.10(2)–(4). In this case, the parties negotiated a plea agreement that provided that the defendant would plead guilty to amended and substituted charges. At the guilty plea proceeding, the county attorney recited the exact terms of the agreement, which included specific sentencing terms and the dismissal of certain charges. Defense counsel then stated agreement with the rendition of the plea agreement, and defendant agreed that he had not been promised anything other than what the attorneys had just told the court. After a complete plea colloquy with the court, the defendant voluntarily pleaded guilty. The court accepted the plea and gave no indication that it was rejecting the plea agreement or reserving

acceptance of the plea agreement. At that time, the court was, by implication and by application of rule 2.10(4), accepting the terms of the agreement.

At the time of sentencing, the court acknowledged the joint sentencing recommendation that the three sentences run consecutively to each other for a total of twenty years, and that they would run consecutively to a sentence James was already serving. The sentencing court then followed the joint recommendation in every detail. As such, the sentence was not the product of court discretion at that stage of the proceedings, but was an effectuation of the terms of the plea agreement previously approved and accepted by the court. In *Matlock*, the supreme court found no error in failing to recite reasons for imposing a mandatory sentence, but also explained that "[t]rial courts should [still] . . . state the reason for the sentence in every case. If the court has no discretion in sentencing, it should so state." 304 N.W.2d at 228.

Under the circumstances of this case, failure to state reasons for imposition of the sentence which the court had previously approved by virtue of accepting the plea agreement to which the defendant had already agreed would serve no useful purpose under rule 2.23(3)(d), and was at that point harmless error. *Cason*, 532 N.W.2d at 756; *Snyder*, 336 N.W.2d at 729. The judgments and sentences are therefore affirmed.

AFFIRMED.