IN THE COURT OF APPEALS OF IOWA

No. 2-307 / 11-1537
Filed April 25, 2012

STATE OF IOWA,
Plaintiff-Appellee,

vs.

DAVID ANTHONY YINGLING,
Defendant-Appellant.

Appeal from the Iowa District Court for Scott County, Mark D. Cleve, Judge.

Defendant appeals from sentences imposed upon his guilty pleas to two counts of lascivious acts with a child. **AFFIRMED.**

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

Thomas J. Miller, Attorney General, Kevin Cmelik, Assistant Attorney General, Michael J. Walton, County Attorney, and Melissa Zaehringer, Assistant County Attorney, for appellee.

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

POTTERFIELD, J.

The defendant, David Yingling, pleaded guilty to two counts of lascivious acts with a child, admitting he twice had fondled the genitals of a child under the age of fourteen. The State dismissed two counts of second-degree sexual abuse and agreed to make no recommendation as to sentencing. Yingling challenges on appeal the sentences imposed by the district court.

At sentencing, defense counsel argued for suspended concurrent sentences, relying upon a report by psychologist, Luis Rosell, who opined defendant was "currently a low risk to commit any future sexual offense." The defendant stated his actions were "inexcusable" and "I do feel as bad as other people have felt and my deep regrets for any wrong doing that I have done in the past and my deep apologies."

The district court considered the offenses, the information contained in the pre-sentence investigation (which notes the defendant had a diagnosis of pedophilia, who "displays some antisocial behaviors such as lack of empathy"), the presentence investigation recommendation of incarceration, and the information contained in Rosell's psychological evaluation. The court weighed the serious nature of the offenses ("by their very nature are extremely serious offenses, they are a very serious threat to public safety and the children of this jurisdiction") against "the mitigating information" presented and concluded incarceration was appropriate.

The court stated further:

> The court has also taken into consideration the fact that the sentences—the offenses set forth in Counts 3 and 4 are in the Court's mind separate and distinct offenses, that when taken—when

> that circumstance, the fact that they are separate and distinct and given the type of offenses that they are and the very serious threat that is involved in a person committing those times of offenses, that it is appropriate to require that the sentences imposed under Counts 3 and 4 run consecutive to one another.

Yingling appeals.

We review sentencing determinations for an abuse of the district court's discretion. *See State v. Barnes*, 791 N.W.2d 817, 827 (Iowa 2010) (noting "[a]n abuse of discretion is found when the court exercises its discretion on grounds clearly untenable or to an extent clearly unreasonable"). A review of the sentencing transcript reveals the sentencing court gave sufficient and thoughtful consideration to the defendant's sentences and discussed the reasons for imposing consecutive sentences. Finding no abuse of discretion, we affirm.

AFFIRMED.