

IN THE COURT OF APPEALS OF IOWA

No. 2-448 / 11-2060
Filed July 11, 2012

STATE OF IOWA,
Plaintiff-Appellee,

vs.

KEON TERMERE MARKS,
Defendant-Appellant.

Appeal from the Iowa District Court for Scott County, Gary D. McKenrick,
Judge.

Keon Marks appeals from the sentences imposed following judgment entered on his guilty pleas to a series of offenses, including theft and driving while barred. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and David A. Adams, Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Sheryl A. Soich, Assistant Attorney General, Michael J. Walton, County Attorney, and Joseph Grubisich, Assistant County Attorney, for appellee.

Considered by Vogel, P.J., and Tabor and Bower, JJ.

VOGEL, P.J.

On December 8, 2011, Keon Marks was sentenced following the district court's acceptance of and judgment entry on a host of guilty pleas. In this appeal, Marks alleges the district court erred in failing to provide reasons for the imposition of consecutive sentences. The judgments entered and sentences imposed were as follows:¹

- FECR335904
 - One count of second-degree theft in violation of Iowa Code section 714.2(2) (2009). Sentence not to exceed five years.
 - One count of third-degree theft in violation of Iowa Code section 714.2(3) (2011). Sentence not to exceed two years.
 - Sentences shall be served concurrently.
- FECR337184
 - One count of second-degree theft in violation of Iowa Code section 714.2(2) (2009). Sentence not to exceed five years.
 - Sentence to run concurrent with sentences imposed under FECR335904.
- AGCR340314
 - One count of third-degree theft in violation of Iowa Code section 714.2(3) (2011). Sentence not to exceed two years.
 - Sentence to run **consecutive** to the sentences imposed under FECR335904 and FECR337184. (Emphasis added).
- AGCR341162
 - Driving while barred as an habitual offender under Iowa Code section 321.561. Sentence not to exceed two years.
 - Sentence to run concurrent with sentence imposed under AGCR340314.
- AGCR341397
 - One count of third-degree theft in violation of Iowa Code section 714.2(3). Sentence not to exceed two years.
 - Sentence to run concurrent with sentences imposed under AGCR340314 and AGCR341162.

In sentencing proceedings, “[w]e will not reverse the decision of the district court absent an abuse of discretion or some defect in the sentencing procedure.”

State v. Fomaro, 638 N.W.2d 720, 724 (Iowa 2002). The relevant factors a court

¹ The guilty pleas were entered on August 19, 2011, October 19, 2011, and November 22, 2011, and stem from a variety of criminal charges filed in the preceding months.

must consider in sentencing a criminal offender include “the nature of the offense, the attending circumstances, the age, character, and propensity of the offender, and the chances of reform.” *Id.* at 725. Here, the court carefully explained its sentencing decision, stating:

The court has reviewed the presentence investigation report. The court does not give any consideration to any entries in the criminal history section of the report for which there has been no admission or adjudication of guilt. Nonetheless, the defendant does have a lengthy involvement with the criminal justice system. Although for the most part that is related to misdemeanor offenses, a majority which appear to be traffic related, nonetheless the court does note that the defendant has been sentenced to serve a term of incarceration in the Illinois Department of Corrections as well. Under the circumstances, it does appear that the defendant has not been capable of deterring himself from further criminal activity based upon the community involvement in the correctional system that he has had up to this point in time. For those reasons, it would appear to the court that a sentence of incarceration is appropriate to deter the defendant from further criminal activity, and to provide sufficient safety to the community from that type of criminal activity by the defendant.

The district court considered several factors in making its sentencing determination and carefully explained its sentencing decision. The district court ultimately concluded that the sentences imposed were appropriate due to Marks’s “lengthy involvement with the criminal justice system,” his inability to deter himself from further criminal activity despite past involvement with the correctional system, and the need to protect the community from further offenses committed by Marks. Based on the district court’s conclusions, it is apparent that the imposition of consecutive sentences was done as part of an overall sentencing plan. See *State v. Hennings*, 791 N.W.2d 828, 839 (Iowa 2010) (noting where it was apparent that two consecutive sentences were imposed as “part of an overall sentencing plan,” the district court’s explanation was

sufficient). Here, the consecutive sentences were later referenced in the plea colloquy when the court acknowledged that it had “sentenced [Marks] up to seven years incarceration.”

On our abuse of discretion review, we find the district court sufficiently explained the relevant factors it considered in crafting the sentence imposed. See *Fomaro*, 638 N.W.2d at 724 (stating “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”). We therefore affirm the district court’s imposition of consecutive sentences.

AFFIRMED.