

IN THE COURT OF APPEALS OF IOWA

No. 2-911 / 12-0610
Filed December 12, 2012

STATE OF IOWA,
Plaintiff-Appellee,

vs.

CORY ROBERT LECOUNT,
Defendant-Appellant.

Appeal from the Iowa District Court for Story County, Michael J. Moon (guilty pleas) and Timothy J. Finn (sentencing), Judges.

Cory Lecount appeals following his guilty pleas, judgments, and sentences for lascivious acts with a child and conspiracy, contending the district court abused its discretion in sentencing him. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Robert P. Ranschau, Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Sheryl A. Soich, Assistant Attorney General, Stephen Holmes, County Attorney, and Mary Howell Sirna, Assistant County Attorney, for appellee.

Considered by Doyle, P.J., and Mullins and Bower JJ.

DOYLE, P.J.

The State originally charged nineteen-year-old Cory Lecount with two counts of third-degree sexual abuse and assault with the intent to commit sexual abuse, based on sex acts he committed with a thirteen-year-old girl. He was also charged with one count of second-degree robbery for an unrelated incident. Lecount pled guilty to one count of lascivious acts with a child and conspiracy.

The Department of Correctional Services completed a presentence investigation report and recommended Lecount be placed on probation with the condition that he be placed in a residential facility. Lecount had no significant prior criminal convictions, and he had immediate employment waiting for him upon his release upon probation. In part of the presentence investigation, it noted Lecount underwent a psychosexual evaluation, and the resulting test scores indicated he was in the low to moderate risk range. The presentence investigation report recommended that Lecount be given an opportunity to successfully participate in a community-based treatment program. Additionally, the report recommended that Lecount undergo a substance abuse evaluation as well as a mental health evaluation and be required to follow any treatment recommendations. Lecount acknowledged that he may have a substance abuse problem and requested to undergo a substance abuse evaluation. Lecount indicated that he planned to comply with any treatment recommendations that the evaluations made.

In March 2012, the district court entered its judgment and sentenced Lecount to a term of imprisonment not to exceed ten years on the lascivious-acts-with-a-child charge. It also sentenced Lecount to a term of imprisonment

not to exceed five years on the conspiracy charge, and it ordered the two sentences of imprisonment be served concurrently.

Lecount now appeals, arguing the district court abused its discretion in sentencing him. See *State v. Valin*, 724 N.W.2d 440, 445 (Iowa 2006) (“When a sentence is imposed within statutory limits, it will be set aside only for an abuse of discretion.” (citation omitted)). He requests that his sentence be vacated and the case remanded for resentencing, with his sentence suspended and “appropriate conditions” imposed that “would satisfy Lecount’s and society’s needs.”

In sentencing Lecount to a ten-year-period of imprisonment, the court explained:

[W]henever a judge imposes a sentence, he is required to consider two things. One is the chance of rehabilitation and the second is protection of the community. Generally speaking—at least I think most judges do—I know I do, if I have a young offender, I am less likely to send them to prison because of a number of factors, including the fact that I believe that they should be given a chance at rehabilitation.

In this case, though, there are certain crimes which are substantially and significantly serious and affect the community that I do not think that that is appropriate. So that is what I am weighing here. That is why I am given these two recommendations, one from the presentence investigator and your attorney that I essentially put you on probation, send you to the halfway house and give you a chance to work on what appears to be a good start on a significant drug or alcohol problem, and also to work on your sexual abuse proclivity. It is also why the State is recommending I send you to prison on this charge.

So I consider here today your age, the fact that you have no significant criminal record, but on the other hand, at age nineteen I would not expect you to have much of a serious criminal record. You do now have that. I take that into account.

So when I weigh all of those, I need to come up with a sentence that is appropriate, give you a chance to be rehabilitated, give the community a chance to make sure that things like this don’t happen. I am struck by the fact that these offenses occurred within

a relatively short period of time and that concerns me. It is one of those things that concerns me.

So it will be the judgment of the court that on the conspiracy charge that you be sentenced to five years in prison, and that you be given the minimum fine, you pay the court costs and attorney fees, and that a no-contact order be entered here.

On the other charge, the lascivious acts with a child, I will impose the special life sentence provision I am going to sentence you to ten years in prison. I'm going to impose a \$1000 fine, thirty-five percent surcharge, court costs, and on both of these charges—on that charge any restitution that may be forthcoming.

Upon our review, we find these reasons comport with the pertinent statute and case law. See Iowa Code § 901.5 (2011) (requiring court to decide, in its discretion, which authorized sentence “will provide maximum opportunity for the rehabilitation of the defendant, and for the protection of the community from further offenses by the defendant and others.”); *State v. Leckington*, 713 N.W.2d 208, 216 (Iowa 2006) (stating that in exercising its discretion, the district court is to weigh and “consider all pertinent matters in determining a proper sentence, including the nature of the offense, the attending circumstances, the defendant’s age, character, and propensities or chances for reform. . . . The punishment should fit both the crime and the individual.”). Although Lecount was a young, employed man with no significant prior criminal convictions, and although the presentencing investigation report recommended Lecount’s sentence be suspended with probation and placement in a residential facility, we cannot conclude the district court’s decision was unreasonable or based on untenable grounds. See *Valin*, 724 N.W.2d at 445. Accordingly, we affirm Lecount’s judgments and sentences.

AFFIRMED.