

IN THE COURT OF APPEALS OF IOWA

No. 3-781 / 13-0176
Filed September 5, 2013

STATE OF IOWA,
Plaintiff-Appellee,

vs.

MARK ANTHONY GOLLE,
Defendant-Appellant.

Appeal from the Iowa District Court for Floyd County, Christopher C. Foy, Judge, (plea) and Peter B. Newell, District Associate Judge (sentencing).

Mark Anthony Golle appeals the sentence imposed following his guilty plea to wrongful injury. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Martha Trout, Assistant Attorney General, Normand Klemesrud, County Attorney, and Todd Pritchard, Assistant County Attorney, for appellee.

Considered by Eisenhauer, C.J., and Vaitheswaran and Doyle, JJ.

EISENHAUER, C.J.

Mark Anthony Golle appeals the sentence imposed following his guilty plea to willful injury. He contends the district court failed to properly exercise its discretion in sentencing him to an indeterminate term of incarceration not to exceed five years. We review his claim for an abuse of discretion. *State v. Mai*, 572 N.W.2d 168, 170 (Iowa 1997).

Golle attacked his girlfriend in 2012 by biting her lip twice, choking her until she began to lose consciousness four times, and putting his finger in her mouth and “fish hooking” her with it. Police officers who responded to the scene noted her face and neck were bruised and she had received “a deep laceration in her mouth” where her cheek had been ripped from the gum line. After the attack, Golle took the victim’s phone to keep her from calling the police and would not let her leave the residence. The victim stated she had “never felt more scared for her life.”

As a result, Golle was charged with domestic abuse assault and willful injury. He pleaded guilty to willful injury in exchange for the State dismissing the domestic abuse assault charge. The court sentenced him to an indeterminate term of confinement for not more than five years, stating:

Again, Mr. Golle, I have had a chance to review the Presentence Investigation. They are recommending that you be incarcerated. I think that’s based primarily upon the prior prison sentence that you had. I understand that that was almost two—20 years ago, but I think that is part of the reason for the recommendation.

I think the other part of the recommendation is that this is a crime of violence. It wasn’t a drug offense or a property offense; it was a crime of violence. The victim may have had some change of heart, . . . and she may not want you to go to prison, but it’s clear that she’s very afraid, and that’s made very clear in the Presentence Investigation. Mr. Golle, I think it would be

appropriate to follow the Presentence Investigation, and I will do that.

The sentencing court is required to state its reasons for a particular sentence on the record. Iowa R. Crim. P. 2.23(3)(d). Its explanation need not be detailed; a cursory explanation is enough so long as it allows the appellate court to review the trial court's discretionary action. *State v. Jacobs*, 607 N.W.2d 679, 690 (Iowa 2000). Here, the court's reasons for imposing the five-year sentence on Golle—although briefly stated—are adequate to allow us to review the court's exercise of discretion.

Golle claims the district court's reasons for imposing the sentence are legally inadequate. He argues the court relied solely on the nature of the offense in sentencing him. He further argues any reliance on a twenty-year-old conviction for a crime "wholly unrelated" to the current charge "is inadequate to tip the balance in favor of incarceration."

A sentencing court may properly consider the nature and severity of the offense in sentencing a defendant. *State v. Millsap*, 704 N.W.2d 426, 435 (Iowa 2005). However, "the nature of the offense alone cannot be determinative of a discretionary sentence." *State v. Harris*, 528 N.W.2d 133, 135 (Iowa Ct. App. 1994). Here the court considered the presentence investigation and noted the investigator recommended incarceration. The court then cited three possible reasons for the recommendation: Golle's prior prison sentence, the violent nature of the crime, and its effect on the victim. On that basis, the court determined incarceration was appropriate. The court did not rely only on the nature of the crime in determining Golle's sentence.

Golle also asserts the court deferred to the presentence investigation in lieu of exercising its discretion. We disagree. While the court did accept the presentence investigator's recommendation, it first explored the possible reasons for that recommendation. In doing so, the court considered both the information contained in the presentence investigation and various sentencing factors before determining incarceration was appropriate. This shows an exercise of discretion.

We conclude Golle has failed to show the court abused its discretion in sentencing him to five years in prison. Accordingly, we affirm.

AFFIRMED.