

IN THE COURT OF APPEALS OF IOWA

No. 7-497 / 06-1703
Filed November 29, 2007

STATE OF IOWA,
Plaintiff-Appellee,

vs.

CURTIS EUGENE HARMS,
Defendant-Appellant.

Appeal from the Iowa District Court for Polk County, Robert Hutchison,
Judge.

Curtis Harms appeals from his judgment and sentence for two counts of
first-degree theft. **AFFIRMED.**

Thomas Graves of Jackowski & Graves, L.L.P., Des Moines, for appellant.

Thomas J. Miller, Attorney General, Karen Doland, Assistant Attorney
General, John P. Sarcone, County Attorney, Michael T. Hunter and John H.
Judisch, Assistant County Attorneys, for appellee.

Considered by Mahan, P.J., and Miller and Vaitheswaran, JJ.

VAITHESWARAN, J.

The State charged Curtis Harms with one count of first-degree theft. Iowa Code §§ 714.1, 714.2(1) (2003). Harms pled guilty to second-degree theft. *Id.* §§ 714.1, 714.2(2). Prior to sentencing, Harms filed a motion in arrest of judgment alleging his plea lacked a factual basis and he was denied effective assistance of counsel. The district court granted his motion.

The State subsequently filed an amended trial information charging Harms with ten counts of first-degree theft. Harms pled guilty to two of the counts. The district court ordered his sentences served consecutively.

On appeal, Harms argues “trial counsel was ineffective in that he allowed [him] to plead guilty despite the State’s violation of his right to speedy trial.” Harms also maintains trial counsel was ineffective in filing a motion in arrest of judgment with respect to his first plea. We preserve both ineffective-assistance-of-counsel claims to afford trial counsel an opportunity to respond. *State v. Martinez*, 679 N.W.2d 620, 626 (Iowa 2004).

Harms next takes issue with the district court’s sentence. He asserts the court (1) did not state reasons for imposing consecutive prison terms and (2) abused its discretion in declining to order concurrent rather than consecutive terms.

The court must provide reasons for imposing consecutive sentences. *State v. Delaney*, 526 N.W.2d 170, 178 (Iowa Ct. App. 1994) (citing *State v. Johnson*, 445 N.W.2d 337, 343 (Iowa 1989)). Those reasons “are not required to be specifically tied to the imposition of consecutive sentences, but may be found from the particular reasons expressed for the overall sentencing plan.” *Id.*

After listening to Harms, the district court stated the following:

The Court has taken into consideration the defendant's age; his prior record of convictions, which is substantial; his employment and family circumstances; the nature of the offense that was committed here and the harm to the victim, the fact there was no weapon or force involved in this offense; the defendant's financial circumstances; his need for rehabilitation and potential for that, which I will say for the record I think is limited; the necessity of protecting the community from further offenses by the defendant and others; and the other factors that are set forth in the presentence investigation report.

Mr. Harms, I was here and took your guilty plea and I have listened to you today. It is apparent to me that you still don't get it. You still continue to deny responsibility for what's happened here, to say that you didn't understand that what you were doing was wrong This was a calculated scheme that went on for a long period of time. It's my judgment that you be sentenced to ten years on each of these two offenses, [and] that they . . . run consecutive to one another

It is clear from this summary that the sentencing reasons articulated by the court applied to the decision to impose consecutive sentences as well as the overall sentencing plan. *Cf. State v. Jacobs*, 607 N.W.2d 679, 690 (Iowa 2000) (concluding district court provided reasons for imposing sentence but not for imposing consecutive sentences).

We turn to Harms's assertion that the district court should have exercised its discretion to impose concurrent sentences. The court declined this option because of Harms's continued unwillingness to take responsibility for his long-term illegal acts. The court's statements do not reflect an abuse of discretion.

We affirm Harms's judgment and sentence and preserve his ineffective-assistance-of-counsel claims for postconviction relief.

AFFIRMED.