

**IN THE COURT OF APPEALS OF IOWA**

No. 8-280 / 07-1404  
Filed April 30, 2008

**STATE OF IOWA,**  
Plaintiff-Appellee,

**vs.**

**RONALD FRANKLIN JOHNSON,**  
Defendant-Appellant.

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Appeal from the Iowa District Court for Clinton County, John A. Nagra,  
Judge.

Ronald Johnson appeals his sentence following his plea of guilty for three  
counts of third-degree sexual abuse. **AFFIRMED.**

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

Thomas J. Miller, Attorney General, Sheryl A. Soich, Assistant Attorney  
General, Michael L. Wolf, County Attorney, and Ross J. Barlow, Assistant County  
Attorney, for appellee.

Considered by Vogel, P.J., and Zimmer and Baker, JJ.

**ZIMMER, J.**

Ronald Johnson appeals his sentence following his plea of guilty for three counts of third-degree sexual abuse in violation of Iowa Code sections 709.4(2)(c)(4) and 709.4(2)(b) (2005). He contends the court abused its discretion in imposing two of his three terms of imprisonment consecutively. Finding no abuse of discretion by the district court, we affirm.

In May 2007 the State charged Johnson with six counts of third-degree sexual abuse. The State alleged Johnson had repeatedly sexually abused his stepdaughter who was thirteen and fourteen years of age at the time of the abuse. Johnson pled guilty to three counts of third-degree sexual abuse pursuant to a plea agreement.

The court sentenced Johnson to terms of imprisonment of ten years on all three counts. Two of the terms of imprisonment were ordered to be served concurrently and the third term of imprisonment was ordered to be served consecutively to the other two sentences. Johnson appealed.

A sentence imposed by the district court is reviewed for errors at law. Iowa R. App. P. 6.4. Sentencing decisions are cloaked with a strong presumption in their favor. *State v. Grandberry*, 619 N.W.2d 399, 401 (Iowa 2000). “A sentence will not be upset on appellate review unless the defendant demonstrates an abuse of trial court discretion or a defect in the sentencing procedure, such as trial court consideration of impermissible factors.” *Id.* (citation omitted).

Johnson claims the court abused its discretion in imposing two of his three terms of imprisonment consecutively, and argues he should have received concurrent sentences. In applying discretion in sentencing, the district court

should weigh and consider all pertinent matters in determining proper sentence, including the nature of the offense, the attending circumstances, defendant's age, character and propensities and chances of his reform. The courts owe a duty to the public as much as to defendant in determining a proper sentence. The punishment should fit both the crime and the individual.

*State v. August*, 589 N.W.2d 740, 744 (Iowa 1999) (citations omitted). In this case, the record reveals the district court considered the information in the presentence investigation report, and the recommendations of counsel. The court selected its sentence after considering the seriousness and ongoing nature of the offenses,<sup>1</sup> in addition to Johnson's employment history, family circumstances, and need for rehabilitation.

Our task on appeal is not to second guess the decision made by the district court, but to determine if it was unreasonable or based on untenable grounds. See *id.* In this case, the district court's decision was within statutory limits, and was neither unreasonable nor based on untenable grounds. Because the district court's decision to impose two of his three terms of imprisonment consecutively was well within its discretion, we will not disturb the sentences imposed on Johnson by the district court. We affirm.

**AFFIRMED.**

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<sup>1</sup> Committing a sex act with a thirteen-year-old is a forcible felony, which requires incarceration. Iowa Code sections 702.11 and 907.3.