

IN THE COURT OF APPEALS OF IOWA

No. 8-340 / 07-1663

Filed May 29, 2008

STATE OF IOWA,
Plaintiff-Appellee,

vs.

CHAD ANTHONY NELSON,
Defendant-Appellant.

Appeal from the Iowa District Court for Webster County, Kurt John Stoebe,
Judge.

Defendant appeals the court's sentence of incarceration. **AFFIRMED.**

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

Thomas J. Miller, Attorney General, Sharon K. Hall, Assistant Attorney
General, Timothy N. Schott, County Attorney, and Ricki L. Osborn and Sarah
Livingston Smith, Assistant County Attorneys, for appellee.

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

EISENHAUER, J.

Chad Nelson pled guilty to one count of second-degree theft and two counts of forgery after passing bad checks. At the sentencing hearing Nelson asked the court to follow the PSI report's recommendation of supervised probation at a residential correctional facility. The prosecutor requested incarceration with three, consecutive five-year sentences because the crimes involved two different victims in two different cases and because one elderly victim had been helping Nelson with both food and housing and his actions betrayed her trust. This victim was relocating and now feared for her safety. The court imposed three, five-year prison sentences and ordered them to run consecutively.

Nelson appeals and argues the court abused its discretion when it sentenced him to consecutive five-year sentences. Nelson points out the court's sentence does not follow the PSI's recommendation and claims he should have received a suspended sentence and been placed on probation with the condition he reside at a residential facility. Nelson argues a suspended sentence was more appropriate because his prior criminal record was not lengthy and his history of substance abuse and mental health issues could be addressed in a residential setting.

Our review is for correction of errors at law. Iowa R. App. P. 6.4. "Sentencing decisions of the district court are cloaked with a strong presumption in their favor." *State v. Thomas*, 547 N.W.2d 223, 225 (Iowa 1996). We review the court's sentencing decision for an abuse of discretion which "is found only when the sentencing court exercises its discretion on grounds or for reasons

clearly untenable or to an extent clearly unreasonable.” *Id.* Additionally, “a sentencing court need only explain its reasons for selecting the sentence imposed and need not explain its reasons for rejecting a particular sentencing option.” *State v. Ayers*, 590 N.W.2d 25, 28 (Iowa 1999).

Nelson’s PSI showed he received suspended sentences with probation for three convictions in Tennessee for passing bad checks. Nelson’s Tennessee probation was later revoked and he served eight months in jail. In sentencing Nelson the court stated:

. . .when someone takes someone off the street, feeds them, takes care of them, and their repayment is to tell people about what is in their house in order to have things stolen. I really don’t think it gets much lower than that. . . . I just don’t hear a lot of remorse in your apology. I don’t hear much remorse in anything that you’ve said. The whole scheme seems to be just that, a scheme.

While you haven’t had an extensive criminal history, there is a criminal history there. . . . Rehabilitation is our primary goal here. We have to find a way to rehabilitate you. There is nothing that stands out in this presentence investigation that gives us a good explanation for why you did what you did and there probably is no good explanation. You’ve indicated a drug problem, yet someone else gave you the checks. It just doesn’t make sense that this is directly related to a substance abuse problem. It’s just bad conduct so deterrence is our primary goal. I think deterrence can best be served by sentencing you to the penitentiary for fifteen years.

The court also added: “I think there has to be some consequence in order to get your attention.” The court informed Nelson it would retain jurisdiction and would give serious consideration to reconsidering his sentence “if I get a good report from the prison system and if you’ve completed your programming.”

We conclude the district court did not exercise its discretion on grounds or for reasons clearly untenable or to an extent clearly unreasonable when it decided to impose a term of incarceration rather than a period of supervised

probation. It also did not abuse its discretion in ordering consecutive sentences.

Nelson's sentence is therefore affirmed.

AFFIRMED.