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IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA,	)	
Plaintiff-Appellee,	)	Filed September 20, 1979
vs.	)	
CARLSTON FREDERICK DONALD,	)	<u>187</u>
Defendant-Appellant.	)	62359

Appeal from Des Moines District Court - Gary J. Snyder, Judge.

Defendant appeals sentencing procedures and jail term imposed for violation of section 204.401(3), The Code 1977. - Affirmed.

Michael J. Schilling, Burlington, for Defendant-Appellant.

Thomas J. Miller, Attorney General of Iowa, and Steven S. Hoth, Des Moines County Attorney, for Plaintiff-Appellee.

Submitted to Oxberger, C.J., and Donielson, Snell, Carter and Johnson, JJ.

PER CURIAM

Defendant Carlston Frederick Donald appeals judgment and sentence entered upon guilty plea to a charge of possession of a controlled substance. Affirmed.

Donald pled guilty to possession of a controlled substance in violation of section 204.401(3), The Code (1977 Supp). Donald asserts the trial court erred by not stating the reasons for the sentence in writing and by relying on information not contained in the presentence report. Further, Donald claims the trial court abused its discretion by sentencing him to the maximum six month jail term allowed under section 204.401(3).

I. Iowa R. Crim. P. 22(3)d requires the court to state on the record its reasons for selecting a particular sentence. Unlike previous section 789A(1)(b), The Code 1977, which required reasons for granting probation to be in writing, the current rule only requires the reasons to be stated on the record. Since the transcript of the record is not forwarded to correction authorities, the purpose for stating sentencing reasons on the record noted by Justice McCormick in his special concurrence in State v. Horton, 231 N.W.2d 36, 40 (Iowa 1975) is not met. However, this is a matter for the legislature to address; our duty is to interpret what the statute says. Here, unlike State v. Luedtke, 279 N.W.2d 7 (Iowa 1979), the trial court stated its reasons for sentencing on the record and rule 22(3)d was satisfied.

II. Donald asserts his due process rights were violated because he was denied an opportunity to explain, rebut or mitigate information about his lack of contact with his probation officer. This information was not in the presentence report. However, during the presentencing hearing the trial court asked the defendant about his failure to contact his probation officer and the defendant explained that he was not able to see him because the officer's working hours were 11 a.m. to 4 p.m. Thus, the defendant had the opportunity to rebut the information. Furthermore, the defendant did not request more time to offer additional information. We find no error on this issue.

III. Donald alleges the trial court abused its discretion by sentencing him to the maximum jail term under section 204.401(3). As long as a sentence is within the statutory maximum it will not be reversed absent an abuse of discretion, since the trial court is in a superior position to assess the situation and determine the appropriate sentence. Luedke, 279 N.W.2d at 8; State v. Grgurich, 253 N.W.2d 605, 606 (Iowa 1977).

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Here, the sentence was within the maximum under section 204.401(3). No abuse of discretion is apparent from the record and we find the court did not err by sentencing Donald to the maximum jail term allowed for violation of section 204.401(3).

AFFIRMED.