FILED
AUG 25 1981
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

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| STATE OF IOWA, | ) | Filed August 25, 1981 |
| Plaintiff-Appellee, | ) | 1-163 |
| vs. | ) | 65567 |
| HAROLD F. HILL, | ) | |
| Defendant-Appellant. | ) | |

Appeal from Wapello District Court. Phillip R. Collett, Judge.

Defendant appeals the "not more than ten years" sentence imposed on his guilty plea conviction of false use of a financial instrument in violation of section 715.6, The Code 1979. AFFIRMED.

John David Knight, Ottumwa, Ia., for defendant-appellant.

Thomas J. Miller, Attorney General of Iowa, and Michael Jordan, Assistant Attorney General for plaintiff-appellee.

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

PER CURIAM

Defendant appeals the "not more than ten years" sentence imposed on his guilty plea conviction for false use of a financial instrument in violation of section 715.6, The Code 1979. We affirm.

Defendant was charged in count one of the trial information with burglary in the second degree in violation of sections 713.1 and 713.3, The Code 1979, and in count two, with the crime of false use of a financial instrument in violation of section 715.6, The Code 1979. The information stems from an incident in which Hill signed a check in an attempt to receive cash from a Hy-Vee store in Ottumwa, Iowa. The check was taken from Greiner Implement Company. Initially, the defendant plead not guilty to both charges. On July 17, 1980, the defendant, with counsel present before the court, withdrew his plea of not guilty to false use of a financial instrument and plead guilty pursuant to plea negotiations with the County Attorney's office. The court accepted the plea, ordered a presentence investigation report and set August 20, 1980, as the date for sentencing. The court, acting pursuant to sections 715.6 and 902.9(3), The Code 1979, ordered defendant to be incarcerated in the Men's Reformatory at Fort Madison for a period not to exceed ten years and to pay the cost of prosecution.

The defendant contends that the trial court failed to adequately state the reasons for imposing the "not to exceed ten years" jail sentence, in violation of rule 22(3)(d), of the Iowa Rules of Criminal Procedure. Rule 22(3)(d) is designed to prevent trial courts' abuses of discretion by requiring an articulation of the rationale followed and factors considered by the sentencing court. State v. Horton, 231 N.W.2d 36, 39 (Iowa 1975). The trial court, in sentencing the defendant, considered the sentencing options of section 901.5, The Code 1979, the public's safety, the best approach for rehabilation of the defendant, the defendant's history of criminal activity, his prior parole revocation and the defendant's employment history. The presentence investigation report recommended incarceration and denial of probation based upon those factors. The trial court reasonably exercised its judgment in weighing those factors. In including those factors on the record, the requirements of rule 22(3)(d) are more than adequately satisfied. We feel the trial court stated on the record sufficient reasons for selecting the particular sentence imposed in this case, and thus, defendant's contention that rule 22(3)(d) was violated is without merit.

Defendant also contends that the trial court abused its discretion in imposing the maximum sentence of "not to exceed ten years." We adhere to the view that a sentence within the statutory limits will be set aside only for an abusive exercise of discretion on the part of the the trial court. State v. Peckenschneider, 236 N.W.2d 344, 348 (Iowa 1975). In exercising its discretion, the trial court is admonished to weigh all pertinent matters in determining proper sentence, including the nature of the offense, the attending circumstances, the defendant's age, character and propensities or chances for his reform. The court owes that duty to both the defendant and the public and should exercise the sentencing option that would best accomplish justice for both society and the individual defendant. State v. Hildebrand,280 N.W.2d 393, 396 (Iowa 1979); State v. Robbins, 257 N.W.2d 63, 70 (Iowa 1977).

Applying those principles, the record does not support the defendant's assertion of an abuse of discretion by the trial court. The trial court did not exhibit an inflexible predisposition to apply a rigid sentencing policy as was rejected in State v. Hildebrand, 280 N.W.2d at 396. Nor did the trial court exercise its discretion on grounds or reasons clearly untenable or to an extent clearly unreasonable. See State v. Buck, 275 N.W.2d 194, 195 (Iowa 1979). Instead, the trial court considered several factors, including some of the factors included in section 907.5, The Code 1979. The trial court considered, as noted above, the employment and criminal history of the defendant, the defendant's potential for successful probation completion and defendant's chance for rehabilitation. The court also had testimony on the record by the defendant that he had alcoholic and family problems. We are convinced that the trial court weighed the sentencing options and imposed a sentence within the statutory limits. The court reasonably exercised its discretion and effected a sentencing decision based on the record and made its rationale a part of the record. The court did not abuse its discretion in selecting the maximum sentence. The trial court's sentencing of defendant to a term not to exceed ten years is affirmed.

It should be noted that the Iowa Supreme Court has consistently refused to adopt the ABA standards on sentencing on various occasions, State v. Hibbs, 268 N.W.2d 188, 191 (Iowa 1978), State v. Smith, 244 N.W.2d 325, 326 (Iowa 1976), State v. Peckenschneider, 236 N.W.2d 344, 348 (Iowa 1975). We follow those decisions.

AFFIRMED.