FILED
JUN 26 1984
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA,)

Plaintiff-Appellee,)

vs.)

DUANE GEORGE JOHNSON,)

Defendant-Appellant.)

Filed June 26, 1984 525

4-153
83-968

Appeal from the Iowa District Court for Black Hawk County—L.D. Lybbert, Judge.

Defendant appeals from the sentence imposed on his guilty plea conviction of delivery of a controlled substance in violation of Iowa Code section 204.401(1)(b). AFFIRMED.

Fern S. Shupeck, Assistant Appellate Defender, for defendant-appellant.

Thomas J. Miller, Attorney General, and Sherie Barnett, Assistant Attorney General, for plaintiff-appellee.

Considered by Snell, P.J., and Schlegel, and Sackett, JJ.

Defendant, Duane George Johnson, appeals from the sentence imposed on his guilty plea conviction of delivery of a controlled substance in violation of Iowa Code section 204.401(1)(b). Johnson argues on appeal that the district court abused its discretion in sentencing him to imprisonment. We affirm.

The defendant was charged by trial information with unlawful delivery of a schedule II controlled substance, methamphetamine. Johnson originally appeared and pleaded not guilty, but subsequently withdrew his former plea and entered a guilty plea. The court found the defendant guilty and sentenced him to be confined for a period not to exceed five years.

The record made at sentencing indicated that Johnson had a drinking problem. He had been convicted of armed robbery twelve years earlier. During the last decade he had numerous misdemeanor convictions, including convictions for public intoxication and disturbing the public quiet.

In sentencing the defendant, trial court stated that it considered all information relevant to the question of sentencing, including statements made by the defendant and his counsel and the witnesses. The trial court also indicated that it had considered the presentence investigative report.

The court considered the offense to be serious "because once the substance is placed in the hands of another, the seller or deliverer. . . has no reason to know whether or not the ultimate user of the drug is going to commit some act of violence or other tragedy." The court further indicated that it was the defendant's record which caused him not to suspend the sentence. The trial court said:

> [B]asically I am faced with a problem of an individual who ten years ago apparently committed a serious offense and

> at one time was given street probation which was later revoked and who has, only eight years ago, then completed the services of a sentence in a reformatory, who is now again before the court on a serious offense, and I have no reason to believe and logic tells me that it would be ill considered to feel that if prior probation and prior sentence to confinement in a penal institution have not been enough to deter you from doing something like this, that to now at this time give you another suspended sentence would not make good sense, and the likelihood of it being enough to deter you and others would be very small . . . .

The court also made the following remarks, which form the basis of the defendant's appeal.

> I am not sending you in effect to prison because I feel that it will do you any good, I don't believe that sending anyone to prison does any good. I am doing so because I feel that it is necessary as a punishment and I have stated my reasons for arriving at that conclusion.

Johnson contends that this statement indicates that incarceration was not selected for rehabilitation or protection, but solely for retribution. Johnson argues that this is an abuse of discretion on the part of the sentencing court.

We cannot consider the sentencing court's isolated remarks, but must view them within the record as a whole. The entire record reflects a thoughtful, thorough exercise of sentencing discretion. Defendant has failed to show an abuse of that discretion. In the absence of a demonstrated abuse of discretion, a sentence should not be disturbed on appeal. State v. Morrison, 323 N.W.2d 254, 256 (Iowa 1982).

AFFIRMED.