

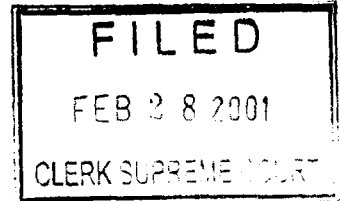
IN THE COURT OF APPEALS OF IOWA

No. 0-836 / 00-954
Filed February 28, 2001

STATE OF IOWA,
Plaintiff-Appellee,

vs.

DENNIS LEE YOWGER, JR.,
Defendant-Appellant.



Appeal from the Iowa District Court for Scott County, Mark Smith, Judge.

On appeal from the judgment and sentence entered upon his convictions for operating a motor vehicle without the owner's consent and criminal mischief, defendant contends the court abused its discretion in sentencing him to prison.

AFFIRMED.

Linda Del Gallo, State Appellate Defender, and James G. Tomka, Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Bridget A. Chambers, Assistant Attorney General, and William E. Davis, County Attorney, and Jerald Feuerbach, Assistant County Attorney, for appellee.

Considered by Streit, P.J., and Hecht and Vaitheswaran, JJ.

VAITHESWARAN, J.

Dennis Yowger, Jr. pled guilty to operating a motor vehicle without the owner's consent and second-degree criminal mischief. See Iowa Code §§ 714.7, 716.4 (1999). The prosecutor and the author of the presentence investigation report recommended he be sentenced to probation. The district court rejected these recommendations and sentenced him to prison terms of two and five years respectively, to be served concurrently. On appeal, Yowger contends the district court abused its discretion in sentencing him to prison. We affirm.

Yowger maintains the district court failed to give adequate consideration to his character and chances for reform. When a challenged sentence falls within statutory limits, our review is for abuse of discretion. *State v. Cooley*, 587 N.W.2d 752, 754 (Iowa 1998). A defendant has a heavy burden to overcome the presumption that a court's discretion was properly exercised. *State v. Stanley*, 344 N.W.2d 564, 569 (Iowa Ct. App. 1983).

The district court stated:

I've reviewed your presentence investigation, as well as your juvenile history. I'm in disagreement with the recommendation of the State and the probation officer. I think incarceration is warranted based on the amount of damage you caused to this vehicle as well as your prior criminal history, so that's what I'm going to do.

We conclude this statement was sufficient to support the court's decision to impose a prison term rather than probation. See *State v. Jacobs*, 607 N.W.2d 679, 690 (Iowa 2000) (stating cursory explanation permitting appellate review of discretionary decision is sufficient). Accordingly, we affirm Yowger's judgment and sentence.

AFFIRMED.