FILED
DEC 30 1981
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA, )
Plaintiff-Appellee, )
vs. )
LEONARD J. OLLENDICK, SR., )
Defendant-Appellant. )

Filed December 30, 1981

1-267
66414

Appeal from Dubuque District Court - Alan L. Pearson, Judge.

The defendant appeals from the revocation of his probation and the imposition of sentence following a prior entry of deferred judgment on a charge of operating a motor vehicle while under the influence of alcohol in violation of section 321.281, The Code. AFFIRMED.

David W. Leifker, Dubuque, for defendant-appellant.

Thomas J. Miller, Attorney General of Iowa, and Teresa Baustian, Assistant Attorney General, for plaintiff-appellee.

Considered by Oxberger, C.J., and Donielson, Snell, Carter, and Johnson, JJ.

The defendant appeals from the revocation of his probation and the imposition of sentence following a prior entry of deferred judgment on a charge of operating a motor vehicle while under the influence of alcohol in violation of section 321.281, The Code. We affirm.

On August 1, 1978, the defendant pled guilty to a charge of operating a motor vehicle while under the influence of alcohol in violation of § 321.281, The Code. After a sentencing hearing held on September 8, 1978, the trial judge granted a deferred sentence for a period of two years, and placed the defendant on probation for that time period. On September 6, 1980, the defendant was arrested for public intoxication. The trial court, after a hearing, entered an order revoking the defendant's probation, sentenced him to serve three days in jail, revoked his driver's license indefinitely, and directed the defendant to attend drinking driver's school. Since the Iowa Supreme Court denied a motion for stay of execution on March 13, 1981, the defendant served his jail sentence. He thus appeals only from those provisions of the judgment regarding the revocation of his driver's license.

The defendant argues that the original trial court erred in providing for a deferred judgment and probation for a two year period without specifically determining what length of probation was appropriate as required by §§ 907.5 and 907.7, The Code. Therefore, the defendant argues, the two year probation cannot serve as the basis for the current revocation of probation and sentence. We disagree. Although the statute required the judge to give written reasons for the length of probation ordered, and the judge committed error by failing to do so, not all errors require reversal. State v. Buford, 308 N.W.2d 31, 34 (Iowa 1981). In this case, the defendant had already served almost the entire period of his probation before he challenged the sentence. In addition, the two-year period of probation was within the statutory maximum. Section 907.7, The Code 1977. If the defendant desired to challenge the length of probation, or the lack of written reason given, he should have done so soon enough so that the trial court would have had an opportunity to correct any error that it made. See State v. Gardner, 274 N.W.2d 328, 331 (Iowa 1979) (LeGrand, J., concurring specially). The error was a technical one, which should have been challenged at the time it was made, and we deem it waived because there was never any such challenge.

The defendant also argues that the trial judge erred in revoking his probation, sentencing him to three days in jail, and revoking his driver's license. We disagree. The

probation violation occurred within the two-year period of probation. The revocation of probation and the sentence imposed were within the statutory maximum, and therefore we will not interfere, since there was no abuse of discretion. State v. Luedtke, 279 N.W.2d 7, 8 (Iowa 1979).

AFFIRMED.