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CLERK SUPREME COURT

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IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA,)

Plaintiff-Appellee,) Filed February 26, 1980

vs.)

NELLIE L. (BONNIE) SIGLER,) 349/62341

Defendant-Appellant.)

Appeal from Pottawattamie District Court - Harold L. Martin, Judge.

Defendant appeals the trial court's revocation of her deferred sentence and subsequent sentence of ten years asserting trial court (1) failed to adequately state in the record its reasons for selecting her sentence and (2) abused its discretion by imposing a prison term rather than a new term of probation. AFFIRMED.

Mr. John W. Logan of Council Bluffs for defendant-appellant.

Thomas J. Miller, Attorney General of Iowa; Shirley Ann Steffe, Assistant Attorney General; and Joseph J. Hrvol, Assistant Pottawattamie County Attorney; for plaintiff-appellee.

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

PER CURIAM

Defendant appeals the trial court's revocation of her deferred sentence[1] and subsequent sentence of ten years.[2] On appeal she asserts the trial court (1) failed to adequately state in the record its reasons for selecting her sentence, and (2) abused its discretion by imposing a prison term rather than a new term of probation. Defendant further requests this court adopt the ABA Standards for Appellate Review of Sentences and the ABA Standards for Sentencing Alternatives and Procedures. We affirm.

I. Defendant asserts the trial court, in sentencing her, failed to comply with the provisions of Iowa R. Crim. P. 22(3)(d), which provides in part, "The court shall state on the record its reason for selecting the particular sentence." See State v. Luedtke, 279 N.W.2d 7, 8 (Iowa 1979). This contention is utterly without merit. The trial court, when sentencing defendant, stated as follows:

> You have had chances and whether you continue to violate the law, and that is the thing before the Court and the Court is certainly not unmindful of the family situation and it was not unmindful of the family situation the first time this matter was presented to the Court. We went through practically the same thing the first time.
>
> Now, I believe that at this time you do begin to realize that you need some help in this matter and I don't feel that you will get help by going out to Nebraska. I can't think that is going to help you with your problem at all.
>
> I think that would be the easy way out. I think if you are going to have help you are going to have to get it from a controlled situation where they can help you, give you some professional help so you can have the rest of your life with your family and enjoy a good life.
>
> And it is the purpose and the feelings of this Court and this, of course, is where we all disagree a lot of times. It is the feeling of the Court it will be for your benefit and the benefit of your family if you can be placed in a controlled situation for a short period of time where you can get some help with your problem and give you a chance to straighten out and get the help that you need and that is the reason that the Court is going to impose the judgment that the Court is about to do.

This extended quotation from the record adequately indicates the trial court's reasons for imposing its sentence and fully complies with the requirements of Iowa R. Crim. P. 22(3)(d) and Luedtke.

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[1] In 1976 defendant pleaded guilty to a charge of forgery, a violation of section 718.1, The Code 1975. She was given a deferred sentence and placed under the supervision of a probation officer for two years.

[2] Section 718.1 provides for a sentence of "imprison[ment] in the penitentiary [for] not more than ten years, or imprison[ment] in the county jail not exceeding one year or fine[e] not exceeding one thousand dollars."

II. Defendant asserts the trial court abused its discretion in giving her the statutory maximum sentence provided by section 718.1, The Code 1975. The term "abuse of discretion" was discussed in State v. Noonan, 246 N.W.2d 236, 237 (Iowa 1976), wherein it was stated:

> In order to have an 'abuse' in reaching . . . [the sentencing] determination, the result must be so palpably and grossly violative of fact and logic that it evidences not the exercise of will but perversity of will, not the exercise of judgment but defiance thereof, not the exercise of reason but rather of passion or bias.

Defendant contends the violations of her probation were the result of circumstances beyond her control.[3] She presented evidence showing she was providing her children a good home under adverse circumstances. She acknowledged her problems and testified that she was taking positive steps to ameliorate her situation. Nevertheless, the trial court was confronted with evidence that defendant had repeatedly violated the terms of her probation agreement. Her probation officer's report alleged several violations and recommended her deferred sentence be revoked and she be incarcerated. The record shows she had pleaded guilty to a charge of false drawing and uttering of a check while under probation.[4] There was uncontested testimony that she had written other insufficient funds checks but had not been prosecuted for them. On the basis of this record, we cannot say the trial court absued its discretion in sentencing defendant to the statutory maximum prison term. The trial court was in a superior position to assess defendant's situation and determine an appropriate sentence. State v. Spence, 282 N.W.2d 131, 134 (Iowa 1979); State v. Luedtke, 279 N.W.2d 7, 8 (Iowa 1977).

III. Defendant also urges adoption of the American Bar Association Standards of Appellate Review of Sentences (Approved Draft 1968) and the American Bar Association Standards for Sentencing Alternatives and Procedures (Approved Draft 1968). The Iowa Supreme Court has repeatedly declined to adopt these standards. State v. Killpack, 276 N.W.2d 368, 372 (Iowa 1979); State v. Hubbs, 268 N.W.2d 188, 191 (Iowa 1978); State v. Peckenschnider, 236 N.W.2d 344, 348 (Iowa 1975). We find this request must be denied.

AFFIRMED.

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[3] Defendant claims she wrote the bad checks to provide for her family. The record indicates she is the sole custodial parent of four children. She further testified that her former husband had only sporadically met his support obligation, which further aggravated her financial difficulties.

[4] A violation of section 713.1, The Code 1977.