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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

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STATE OF IOWA,	)	
Plaintiff-Appellee,	)	Filed March 20, 1984
vs.	)	4-62
GARY LYNN PETERS,	)	83-805
Defendant-Appellant.	)	

Appeal from the Iowa District Court for Black Hawk County--Roger Peterson, Judge.

Defendant appeals from his guilty plea conviction of delivery of a controlled substance. AFFIRMED.

K.L. Kober of Pickett & Kober, Waterloo, for defendant-appellant.

Thomas J. Miller, Attorney General, Attorney General, and Steven M. Foritano, Assistant Attorney General, for plaintiff-appellee.

Heard by Oxberger, C.J., and Hayden, and Sackett, JJ.

Defendant appeals from his guilty plea conviction of delivery of a controlled substance. See Iowa Code § 204.401(1)(b)(1981). We affirm.

I. Motions

On April 5, 1983, defendant Peters pleaded guilty to delivery of a controlled substance. Prior to the plea, defendant filed a motion to suppress evidence and a motion to sever his trial from that of two co-defendants. The trial court overruled his motions and now Peters challenges those rulings. However, Peters' guilty plea waived all defenses and the right to contest all adverse pretrial rulings. See State v. Morehouse, 316 N.W.2d 884, 885 (Iowa 1982). Therefore, defendant is not entitled to relief on these issues.

II. Sentencing

We will not find the sentencing court to have abused its discretion unless Peters shows that such discretion was exercised on grounds or for reasons clearly untenable or to an extent clearly unreasonable. See State v. Morrison, 323 N.W.2d 254, 256 (Iowa 1982). The duty of a sentencing judge in every case is to consider the available options, to give due consideration to all circumstances in the particular case, and to exercise that option which will best accomplish justice for both society and for the individual defendant. State v. Hildebrand, 280 N.W.2d 393, 396 (Iowa 1979).

The trial court based its decision on several criteria. First, the court voiced a strong concern for the protection of the community by stating that a supplier of this type of drug causes "untold agony and problems in our society today." See Iowa Code § 901.5. The judge coupled that concern with the fact that Peters not only delivered a very strong controlled substance but also a very substantial amount of that substance.

Secondly, the trial judge indicated that he was satisfied that Peters made arrangements for the sale of another quantity of this substance, even though Peters remarked in his presentence interview that this was the only time he had ever sold drugs. Consideration of such evidence by a sentencing court is proper when the facts tend to independently prove such a charge. See State v. Black, 324 N.W.2d 313, 316 (Iowa 1982). The trial judge based this belief at the sentence hearing on the testimony of James Wertz, the D.C.I. agent. Wertz testified that he talked to an individual identified as "Gary" about purchasing some hash oil. "Gary" acknowledged that he had sent the people that had been involved in a previous drug purchase with Wertz. Wertz and "Gary" set up a subsequent drug purchase; when Wertz went to the house to purchase the drugs, he met defendant, Gary Peters. Wertz testified that he recognized the voice on the phone as the voice of defendant; the defendant did not offer rebuttal evidence against this testimony. Therefore, we find consideration of this evidence to be proper and within the trial court's permissible range. See generally State v. Black, supra, and State v. Messer, 306 N.W.2d 731 (Iowa 1981).

Thirdly, the trial court did not disregard the testimony of family and friends who indicated that Peters was a pleasant young man and a hard worker. However, the court did not feel obliged to suspend the sentence based upon that testimony. Instead, the trial court chose to rely on the presentence investigation, Mr. Wertz's testimony, the nature and extent of the crime, and community concerns. Accordingly, we find no abuse of the trial court's discretion and affirm the sentence.

AFFIRMED.