

IN THE COURT OF APPEALS OF IOWA

No. 8-168 / 97-1228

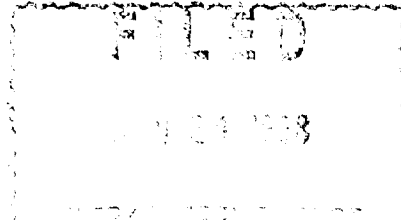
STATE OF IOWA,

Plaintiff-Appellee,

vs.

JESSIE HILL,

Defendant-Appellant.



Appeal from the Iowa District Court for Marshall County, Sandra J. Holien,
District Associate Judge.

Defendant appeals from the sentence entered upon his plea of guilty to driving
while barred in violation of Iowa Code section 321.561 (1997). **AFFIRMED.**

Raymond L. Reel of Fairall, Fairall, Kaplan, Hoglan, Condon & Klaessy,
Marshalltown, for appellant.

Thomas J. Miller, Attorney General, Bridget A. Chambers, Assistant Attorney
General, James DeTaeye, County Attorney, and Jennifer Webster, Assistant County
Attorney, for appellee.

Considered by Sackett, P.J., and Streit and Mahan, JJ.

MAHAN, J.

Defendant Jessie Hill appeals from the sentence entered upon his guilty plea to driving while barred in violation of Iowa Code section 321.561 (1997). Hill contends the district associate court abused its discretion by failing to provide an adequate explanation for the sentence it imposed. We affirm.

Hill was convicted five times in 1991 for driving under suspension, resulting in his classification as an habitual offender and having his driving privileges barred until January 1998. In the instant case, he was charged with driving while barred, an aggravated misdemeanor, after he was stopped by a highway patrol officer for speeding on December 31, 1996. He had three convictions in 1993 for driving while barred, one in 1994, and one in 1995 for driving while barred as an habitual offender.

Hill entered a written guilty plea pursuant to a plea bargain. At the sentencing hearing, the district associate court made the following statement:

This court believes that imposition of the mandatory minimums is an appropriate disposition because of the number of prior convictions for driving while barred.

The court then sentenced Hill to a \$500 fine with thirty percent surcharge -- the mandatory minimum fine for the offense -- and an indeterminate two year jail term, with all but thirty days suspended, and one year of probation. He was given the option of performing 100 hours of community service in lieu of the fine.

We review sentencing determinations for an abuse of discretion. *State v. Loyd*, 530 N.W.2d 708, 711 (Iowa 1995). Sentencing decisions of the trial court are

cloaked with a strong presumption in their favor, and an abuse of discretion will not be found unless the defendant shows that such discretion was exercised on grounds or for reasons clearly untenable or to an extent clearly unreasonable. *State v. Johnson*, 513 N.W.2d 717, 719 (Iowa 1994).

On appeal, Hill argues the sentencing court abused its discretion by failing to give adequate reasons for the sentence it imposed. Hill specifically complains the court imposed the maximum twenty-four month jail term after stating the mandatory minimums were the appropriate disposition. He asks this court to remand this case for resentencing.

Iowa Rule of Criminal Procedure 22(3)(d) requires a court to “state on the record the reasons for selecting the particular sentence” imposed. *Id.* There must be a sufficient statement in the sentencing colloquy to give us a clue to the court’s reasoning so we may perform our duty on review. *State v. Uthe*, 542 N.W.2d 810, 816 (Iowa 1996). In exercising discretion, “the district court is to weigh all pertinent matters in determining a proper sentence including the nature of the offense, the attending circumstances, the defendant’s age, character, and propensities or chances for reform.” *Loyd*, 530 N.W.2d at 713 (quoting *Johnson*, 513 N.W.2d at 719).

In the sentencing hearing the State requested “the mandatory minimum fine” plus costs and surcharge and sixty days in jail. Hill asked the court “to go along with the State’s recommendation” except that the court should suspend all but seven days of the jail sentence and put Hill on two years probation. The court subsequently

reviewed Hill's long history of convictions for related offenses. The only "mandatory minimum" in Iowa Code section 903.1(2) is a fine of at least \$500. The balance of the language sets forth *maximum* sentences. The sentencing court's statement concerning the mandatory minimums, taken in context, could only refer to *paying* the fine, which the court has the authority to suspend or defer. *State v. Chana*, 476 N.W.2d 38, 39 (Iowa 1991). The court clearly considered Hill's current unemployment in allowing him to choose community service instead of the fine. The court also exercised its discretion, based on Hill's prior record, in imposing a term of incarceration, which was tempered by suspension of all but thirty days. We determine the sentencing colloquy is adequate for us to evaluate the court's exercise of its discretion. From our review of the record, we conclude the court did not abuse its discretion in sentencing Hill.

AFFIRMED.