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IN THE COURT OF APPEALS OF IOWA
CLERK SUPREME COURT

STATE OF IOWA,	)	
Appellee,	)	Filed November 19, 1979
vs.	)	
MARLYN Y. ANDERSON,	)	<u>267</u>
Appellant.	)	61680

Appeal from Monona District Court - David J. Blair, Judge.

Defendant appeals conviction for welfare fraud in violation of section 239.14, The Code 1977, alleging the trial court erred by denying her dismissal and directed verdict motions. Defendant also asserts trial court abused its discretion by imposing a jail sentence. - Affirmed.

Steve Engelhardt, of Norelius & Engelhardt, Denison, for appellant.

Thomas J. Miller, Attorney General of Iowa, and Shirley Steffe, Assistant Attorney General, for appellee.

Heard by Oxberger, C.J., and Donielson, Carter and Johnson, JJ. Snell, J., takes no part.

PER CURIAM

Defendant Marilyn Y. Anderson appeals conviction for welfare fraud in violation of section 239.14, The Code 1977. Affirmed.

Defendant Marilyn Y. Anderson was convicted by a Monona County jury of applying for and receiving aid to dependent children without disclosing the availability of trust funds to her and her family. On appeal, defendant asserts her motion to dismiss and her motion for directed verdict should have been granted since there was not sufficient evidence present to support a guilty verdict. Defendant also claims the trial court abused its discretion by imposing a jail sentence.

When reviewing motions for directed verdicts or motions to dismiss, we view the evidence, along with its reasonable inferences, in the light most favorable to the State. State v. Blyth, 226 N.W.2d 250, 266 (Iowa 1975). If substantial evidence reasonably tends to support the charge given, the trial court should submit the matter for jury consideration. State v. McDaniel, 265 N.W.2d 917, 922 (Iowa 1978).

Here, the State charged defendant with a violation of section 239.14. Taken as a whole, the evidence reasonably shows defendant received assistance under chapter 239, in part, due to false information she gave on her aid application and received more assistance than she would have had she made an accurate aid application, thereby committing a crime in Monona county. Since the elements of the charge of welfare fraud in violation of section 239.14 were reasonably supported by the evidence, the trial court properly submitted the charge to the jury. It did not err by overruling defendant's dismissal and directed verdict motions.

Defendant also contends the trial court abused its discretion by imposing a jail sentence. As long as a sentence is within the statutory maximum, it will not be reversed absent an abuse of discretion since the trial court is in a superior position to assess the situation and determine the appropriate sentence. State v. Luedtke, 279 N.W.2d 7, 8 (Iowa 1979). Recommendations on sentencing in presentence reports are not binding on the trial court and decisions of probation and deferred sentencing properly are with the trial court's discretion. State v. Grgurich, 253 N.W.2d 605, 606 (Iowa 1977). Here, the sentence was within the statutory maximum and our review of the record discloses no abuse of discretion in the sentencing. Rather, we believe the sentence gives due consideration to the circumstances of the case and of the defendant.

AFFIRMED.