

IN THE SUPREME COURT OF IOWA

STATE OF IOWA,

Plaintiff-Appellant,

v.

IOWA DISTRICT COURT
FOR WOODBURY
COUNTY,

Defendant-Appellee.

SUPREME COURT 21-1753

APPEAL FROM THE IOWA DISTRICT COURT
FOR WOODBURY COUNTY
HONORABLE JEFFREY A. NEARY, JUDGE

APPELLEE'S SUPPLEMENTAL BRIEF

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CERTIFICATE OF SERVICE

On the 20th day of January, 2023, the undersigned certifies that a true copy of the foregoing instrument was served upon Defendant-Appellant by placing one copy thereof in the United States mail, proper postage attached, addressed to John Michael Baker, 2107 W. 14th Street, Sioux City, Iowa 51103.

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STATEMENT OF THE ISSUE PRESENTED FOR REVIEW

I. Whether the district court's fine-only sentence was not illegal because (1) Iowa Code section 909.1 supersedes punishments under Iowa Code section 124.401 and 902.9 and (2) Baker was not convicted of a forcible felony that required the mandatory imposition of confinement or probation?

Authorities

Iowa Code § 124.401(5)(a) (2021)

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Iowa Code § 902.9(1)(e) (2021)

Iowa Code § 909.1 (2021)

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STATEMENT OF THE CASE

Appellee John Baker submits this brief pursuant to the Supreme Court's order of December 9, 2022, requesting additional briefing on the potential applicability of Iowa Code section 124.401(5) and Iowa Code chapter 909 (including 909.1) to the defendant's sentence.

Relevant proceedings: The district court sentenced Baker to a fine-only after his conviction of Iowa Code § 124.401(5). (09/27/21 Order of Disposition) (App. pp. 23-36). The State filed a motion to correct an illegal sentence. (10/28/21 State's Motion) (App. pp. 42-43). The district court denied the State's motion. (11/17/21 Order) (App. pp. 44-49). The State filed a petition for writ of certiorari. (01/20/22 Writ) (App. pp. 50-51). This Court granted the State's writ of certiorari challenging the district court's sentencing. (01/20/22 Application Granted) (App. pp. 50-51).

ARGUMENT

I. The district court's fine-only sentence was not illegal because (1) Iowa Code section 909.1 supersedes punishments under Iowa Code section 124.401 and 902.9 and (2) Baker was not convicted of a forcible felony that required the mandatory imposition of confinement or probation.

Because a fine is authorized as a punishment for a violation of Iowa Code section 124.401(5), Iowa Code section 909.1 supersedes Iowa Code section 124.401(5) and Iowa Code section 902.9 and allows the imposition of a fine-only sentence. Possession of a controlled substance, to wit methamphetamine, third offense is governed by Iowa Code section 124.401(5)(a) and 124.401(5)(e), which sets forth the specific punishment.

It is unlawful for a person knowingly or intentionally to possess a controlled substance... A person who commits a violation of this subsection and who has previously been convicted two or more times of violating this chapter...is guilty of a class D felony.

...The court shall order the person to serve a term of imprisonment of not less than forty-eight hours. Any sentence imposed may be suspended, and the court shall place the person on probation upon such terms and conditions the court may impose.

Iowa Code §§ 124.401(5)(a); 124.401(5)(e) (2021).

Iowa Code section 902.9(1)(e) provides the punishment options for a non-habitual class D felon.

A class “D” felon, not a habitual offender, shall be confined, for no more than five years, and in addition shall be sentenced to a fine of at least one thousand twenty-five dollars but not more than ten thousand two hundred forty-five dollars.

Iowa Code § 902.9(1)(e) (2021).

However, Iowa Code section 909.1 supersedes the aforementioned punishments and gives a sentencing court discretion to impose a fine-only sentence.

Upon a verdict or guilty plea of *any public offense for which a fine is authorized*, the court may impose a fine *instead of any other sentence* where it appears that the fine will be adequate to deter the defendant and to discourage others from similar criminal activity.

Iowa Code § 909.1 (2021) (emphasis added).

Baker argues that based on the plain language of Iowa Code section 909.1 and because Iowa Code section 902.9(1)(e) authorizes a fine, he is entitled to be sentenced to a fine-only.

“The goal of statutory construction is to determine legislative intent.” State v. Bower, 725 N.W.2d 435, 442 (Iowa 2006) (quoting State v. Gonzalez, 718 N.W.2d 304, 307 (Iowa 2006)).

[The Court] determine[s] legislative intent from the words chosen by the legislature, not what it should or might have said. Absent a statutory definition or an established meaning in the law, words in the statute are given their ordinary and common meaning by considering the context within which they are used. Under the guise of construction, an interpreting body may not extend, enlarge, or otherwise change the meaning of a statute.

State v. Bower, 725 N.W.2d 435, 442 (Iowa 2006) (quoting State v. Gonzalez, 718 N.W.2d 304, 307 (Iowa 2006)).

[The Court] look[s] at a statute in its entirety and [it] avoid[s] interpreting a statute in such a way that portions of it become redundant or irrelevant. [The Court] search[es] for an interpretation that is reasonable, best achieves the statute’s purpose, and avoids absurd results. [The Court] construe[s] criminal statutes strictly with doubts resolved in favor of the accused. If a standard of conduct can be reasonable ascertained by referring to prior judicial decisions, similar statutes, the dictionary or common generally accepted usage, the statutes meets the requirements of due process.

State v. Bower, 725 N.W.2d 435, 442 (Iowa 2006) (internal citations omitted). “[Our] starting point in statutory interpretation is to determine if the language has a plain and clear meaning with the context of the circumstances presented by the dispute.” State v. Iowa District Court for Jones County, 902 N.W.2d 811, 815 (Iowa 2017) (citing McGill v. Fish, 790 N.W.2d 113, 115 (Iowa 2010)). “When the text of the statute is plain and its meaning clear, the court should not search for meaning beyond the express terms of the statute...”. State v. Schultz, 604 N.W.2d 60, 62 (Iowa 1999) (quoting Wesley Ret. Servs. Inc. v. Hansen Lind Meyer, Inc., 594 N.W.2d 22, 25 (Iowa 1999)). The language is not ambiguous unless “reasonable minds could differ or be uncertain as to the meaning of the statute.” Carolan v. Hill, 553 N.W.2d 882, 887 (Iowa 1996). If there is no ambiguity, the court will apply that plain meaning. Id.; see also State v. Richardson, 890 N.W.2d 609, 618 (Iowa 2017) (“If the language is unambiguous, our inquiry stops there.”).

First, Iowa Code section 909.1 applies to “any public offense in which a fine is authorized.” This language is not ambiguous and the ordinary meaning of the word “any” can be applied because the legislature has not given further statutory definition and the court has not established a meaning. State v. Bower, 725 N.W.2d 435, 442 (Iowa 2006).

The word “any is defined as “one or some indiscriminately or whatever kind; a or some without reference to quantity or extent.” “Any.” *Merriam-Webster.com Dictionary Merriam-Webster*, <https://www.merriam-webster.com/dictionary/any>, last visited on December 19, 2022. In this instance, the use of the term “any” means all criminal convictions, no matter the classification, in which a fine is authorized. In this case, Iowa code section 990.1 applies to Baker’s sentence because his criminal conviction first fits within the definition of “any public offense”. But the analysis under section 909.1 does not conclude with the initial half of the statutory language. While the code section broadly grants the court discretion for any public offense, the section

is more specific in stating that a fine-only punishment may be imposed on for any public offense in which a fine is authorized.

The authorization for fines is found within Iowa Code chapter 909 and those specifically related to class D non-habitual felons, like Baker, are located within Iowa Code section 909.2. This section grants a sentencing court the authority to impose a fine on a class D defendant and it is the basis for Iowa Code section 902.9(1)(e) and reads: the court may impose a fine in addition to confinement, which such is authorized.” Iowa Code § 909.2 (2021).

Because sections 909.2 and 902.9 specifically permit the imposition of a fine, Iowa code section 909.1 applies to any conviction. In this case, Baker becomes qualified for a fine-only sentence because the statutory language of Iowa Code section 909.1 clearly indicates that the legislature intended to allow a sentencing court the discretion to apply a fine only for any conviction in which a fine was authorized in the Code.

Additionally, Iowa Code section 909.1 does not conflict with the possession and penalty statutes because it allows the court, to impose a fine as an alternative to any other sentence.

Iowa Code section 909.1 allows the district court to determine, through individualized sentencing, if a fine-only punishment will serve as a deterrent and discourage others. This means the sentencing court has discretion the under statute, to fashion an individualized criminal sentence that gives the defendant the maximum opportunity for rehabilitation as well as protect the community. Iowa Code § 901.5 (2021); State v. Robbins, 257 N.W.2d 63, 70 (Iowa 1977). This legislative interpretation is supported by State v. Peterson, where the Iowa Supreme Court determined that the “legislative intent” of section 909.1 was only to provide justification or guideline for the imposition of a fine-only sanction when an *offense carries penalties cast in alternative terms of confinement, or fine or both.*” State v. Peterson, 327 N.W.2d 735, 737 (Iowa 1982) (emphasis added). The court in Peterson found that applying 909.1 to the defendant’s forcible

felony conviction would frustrate the legislative intent because the crime carried a mandatory imposed minimum. Id. at 737.

Here, the legislative intent at issue in Peterson would not be applicable. The felony that Baker was convicted of did not carry a mandatory prison term and the court had the option of suspending and placing Baker on probation under the possession code.

Because the legislature has made it possible for Baker to receive a suspended sentence, this demonstrates that the legislature would be amendable to any deterrent punishment, especially for a possession crime. If the imposition of incarceration is not required a sentence of a fine-only is statutorily authorized under Iowa Code section 909.1. State v. Peterson applies to sentences with a mandatory imposition of a prison sentence.

If this court interprets Peterson to apply to all felonies, then Baker argues that it should be overturned because it contradicts the plain language of Iowa Code section 909.1. Iowa Code section 909.1 does not oppose the punishments

outlined in in any other code, but works in tandem with them. The possession code handling class “D” felonies indicates that if the court suspend a prison term, it must impose probation. Because Iowa Code section 909.1 grants the court discretion when choosing a sentence, the court “has the discretion within the applicable statutory framework to determine the sentence which will best meet the goals.” State v. Boltz, 542 N.W.2d 9, 10 (Iowa Ct. App. 1995). The court is obligated to use its discretion in sentencing and must at a minimum, take into consideration the nature of the offense, the attendant circumstances, the defendant’s age, character propensities, and chances for reform. State v. Dvorsky, 332 N.W.2d 62, 66 (Iowa 1982); State v. Hildebrand, 280 N.W.2d 393, 396 (Iowa 1979). A sentencing court is to consider any mitigating circumstances related to the defendant. State v. Witham, 583 N.W.2d 677, 678 (Iowa 1998). “Each sentencing decision must be made on an individual basis, and no single factor alone is determinative.” State v. Johnson, 513 N.W.2d 717, 719 (Iowa 1994). In this case, the district court did what was required

under 909.1. The court weighed all the sentencing options and determined that a fine-only would be the best option for Baker.

CONCLUSION

For the above reasons, the appellee requests this court vacate the Court of Appeals decision and uphold the district court's sentence.

ATTORNEY'S COST CERTIFICATE

The undersigned, hereby certifies that the true cost of producing the necessary copies of the foregoing Brief and Argument was \$2.35, and that no amount has been paid by the Office of the Appellate Defender.

**CERTIFICATE OF COMPLIANCE WITH TYPEFACE
REQUIREMENTS AND TYPE-VOLUME LIMITATION
FOR BRIEFS**

This brief complies with the typeface requirements and type-volume limitation of Iowa Rs. App. P. 6.903(1)(d) and 6.903(1)(g)(1) because:

[X] this brief has been prepared in a proportionally spaced typeface Bookman Old Style, font 14 point and contains 1,789 words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(g)(1).

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