

IN THE COURT OF APPEALS OF IOWA

No. 0-011 / 09-0646
Filed February 24, 2010

STATE OF IOWA,
Plaintiff-Appellee,

vs.

JENNIFER LUCILLE BROGHAMMER,
Defendant-Appellant.

Appeal from the Iowa District Court for Cerro Gordo County, Carlynn D. Grupp, District Associate Judge.

Jennifer L. Broghammer appeals her sentence following the revocation of her deferred judgment on a charge of possession of a controlled substance.

AFFIRMED.

Mark C. Smith, State Appellate Defender, and Nan Jennisch, Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Kyle Hanson, Assistant Attorney General, Paul L. Martin, County Attorney, and Steven D. Tynan, Assistant County Attorney, for appellee.

Considered by Sackett, C.J., and Doyle and Danilson, JJ.

DOYLE, J.

Jennifer Broghammer appeals the sentence imposed following the revocation of her deferred judgment on a charge of possession of a controlled substance. She argues the sentencing court abused its discretion by failing to state reasons for the sentence imposed. We affirm.

In August 2007 Broghammer entered a guilty plea to a charge of possession of a controlled substance (crack cocaine), a serious misdemeanor in violation of Iowa Code section 124.401(5) (2007). The court granted Broghammer a deferred judgment and placed her on supervised probation for one year. In November 2007 the State filed an application to revoke the deferred judgment. At hearing Broghammer stipulated to the alleged probation violations. The court found her in contempt and ordered her to serve jail time. She continued on supervised probation. Broghammer's probation was scheduled to expire in October 2008 and upon her application, the court extended probation for another year. In March 2009 the State filed another application to revoke Broghammer's deferred judgment and filed a supplemental application that same month. A hearing was held, and Broghammer stipulated that she violated the terms of her probation. The district court revoked Broghammer's deferred judgment on the drug possession charge and sentenced her to a suspended one-year jail term and supervised probation for two years. Broghammer appeals.

A sentence imposed by the district court is reviewed for errors at law. Iowa R. App. P. 6.907; *State v. Formaro*, 638 N.W.2d 720, 724 (Iowa 2002). Sentencing decisions of the district court are cloaked with a strong presumption in their favor. *Formaro*, 638 N.W.2d at 724. "A sentence will not be upset on

appellate review unless the defendant demonstrates an abuse of trial court discretion or a defect in the sentencing procedure, such as trial court consideration of impermissible factors.” *State v. Liddell*, 672 N.W.2d 805, 815 (Iowa 2003). In weighing and considering all pertinent matters in determining the proper sentence, the court should consider “the societal goals of sentencing criminal offenders, which focus on rehabilitation of the offender and the protection of the community from further offenses.” *Formaro*, 638 N.W.2d at 724; see also *State v. August*, 589 N.W.2d 740, 744 (Iowa 1999). The court should further consider “the nature of the offense, the attending circumstances, the age, character and propensity of the offender, and the chances of reform.” *Formaro*, 638 N.W.2d at 725.

In this case, Broghammer stipulated to the probation violation. After the court satisfied itself that Broghammer freely and voluntarily entered the stipulation, the court moved to the dispositional phase of the hearing and took evidence. After hearing the witnesses and arguments of counsel, the court addressed Broghammer. The court detailed its concerns about Broghammer’s lack of sobriety and the resulting consequences to her, her children, her family, and her community. The court recognized Broghammer’s sobriety from crack cocaine to be “huge progress” and her recognition of some mental health and emotional issues as “huge steps.” The court went on to discuss the harmful effects of alcohol abuse, and specifically, its concerns about Broghammer if she kept drinking. The court then stated: “So the question is what, if anything, can we do to strengthen the skills you have, to support your journey, and to give you the best possible shot at success?” The court listed the alternatives available,

including incarceration or incarceration suspended with probation and residential treatment at BeJe Clark for 180 days or until maximum benefits. In the court's evaluation, it felt Broghammer could get the best services in her community. The court stated, "because of the ongoing violations regarding alcohol, the Court determines that probation is not serving any purpose, and deferred judgment is revoked. You now stand for sentencing." The court then heard from counsel and took Broghammer's statement of allocution.

The court ordered the deferred judgment revoked and sentenced Broghammer to one year in jail. It suspended her one year in jail and placed Broghammer on probation for two years and, as a specific condition of probation, ordered her to reside at the BeJe Clark residential facility for 180 days or until maximum benefits. The court further provided Broghameer would be held in the jail until bed space was available at the BeJe Clark facility. Other conditions were also imposed. After further formalities, Broghammer was informed of her right to appeal.

Broghammer asserts the district court failed to state reasons for the sentence in violation of Iowa Rule of Criminal Procedure 2.23(3)(d). She argues the court's statements were made before the revocation of the deferred judgment and thus not linked to imposition of the sentence, and the statements were mere "commentary on defendant's case" as the court was "simply weighing the possible sentencing options." She opines "[t]his is not the same as an explanation of why the court selected a particular sentence." Broghammer concludes the court did not state reasons for the sentence imposed. We disagree. Broghammer's argument places form over substance. The record is

patently clear as to the reasons for the court's sentence. The court stated its overriding concern as: "So the question is what, if anything, can we do to strengthen the skills you have, to support your journey, and to give you the best possible shot at success [at sobriety]?" The court concluded Broghammer could get the best services, in her community, through a one-year suspended jail sentence with probation with certain conditions including the specific condition that she reside at the BeJe Clark residential facility for 180 days or until maximum benefits. We find the court's reasons for the sentence were sufficiently adequate to allow us to review the exercise of the district court's sentencing discretion.

Upon our review, we find the district court's decision was within statutory limits and was neither unreasonable nor based on insufficient or untenable grounds. The court properly considered and weighed numerous appropriate factors in arriving at a sentence, and it clearly stated valid reasons for the sentence imposed. The court's sentencing decision was well within its discretion, and we will not disturb it on appeal.

AFFIRMED.