

IN THE COURT OF APPEALS OF IOWA

No. 0-739 / 10-0036
Filed November 24, 2010

STATE OF IOWA,
Plaintiff-Appellee,

vs.

CALVIN GENE KNOX,
Defendant-Appellant.

Appeal from the Iowa District Court for Des Moines County, Michael J. Schilling, Judge.

Defendant appeals the sentence imposed upon his guilty plea to forgery.

AFFIRMED.

Mark C. Smith, State Appellate Defender, and Martha J. Lucey, Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Sheryl A. Soich, Assistant Attorney General, Patrick C. Jackson, County Attorney, Amy Beavers and Lisa Taylor, Assistant County Attorneys, for appellee.

Considered by Vaitheswaran, P.J., and Eisenhauer and Danilson, JJ. Tabor, J., takes no part.

EISENHAUER, J.

In October 2009, Calvin Knox pled guilty to forgery. In November 2009, the court followed the recommendation in the presentence investigation report and sentenced Knox to an indefinite term not to exceed five years. Knox appeals his sentence arguing the court considered improper sentencing factors “by considering the length of incarceration for the different sentencing options.” See *State v. Thomas*, 520 N.W.2d 311, 313 (Iowa Ct. App. 1994) (requiring resentencing when “the trial court expressed the notion that a prison sentence was rejected because of the prospect of early release under the parole system”). “Appellate review of a sentencing decision is for an abuse of discretion.” *State v. Evans*, 671 N.W.2d 720, 727 (Iowa 2003).

While the court briefly referenced the length of time Knox might serve in community-based corrections and in prison, in the context of the entire record, it is clear the court did not consider improper factors in making its sentencing decision. Rather, the court’s brief comments were a preface to the court’s detailed and lengthy explanation of the factors showing “incarceration is warranted.” Incarceration “protect[s] the community from further offenses by [Knox]” when for thirty-five years he has “engaged on [a] more or less regular basis in criminal activity” despite “being incarcerated at least eight times.” The court stated Knox’s extensive criminal history makes it “obvious that efforts at rehabilitation have not been successful.” The court declined to utilize an alternative sentencing option because it had “no confidence whatsoever in

[Knox's] ability to successfully complete probation or a community-based correctional facility program.”

We have reviewed the transcript of the sentencing hearing and the reasons stated by the district court were adequate to demonstrate a proper exercise of discretion. Knox's sentence is therefore affirmed.

AFFIRMED.