

IN THE COURT OF APPEALS OF IOWA

No. 1-164 / 10-1326
Filed May 11, 2011

STATE OF IOWA,
Plaintiff-Appellee,

vs.

YVONNE MARIE DAVIS,
Defendant-Appellant.

Appeal from the Iowa District Court for Black Hawk County, Joseph Moothart, District Associate Judge.

A defendant appeals her sentence for third-degree theft. **AFFIRMED.**

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

Thomas J. Miller, Attorney General, Kyle Hanson, Assistant Attorney General, Thomas J. Ferguson, County Attorney, and Brian Williams, Assistant County Attorney, for appellee.

Considered by Vaitheswaran, P.J., Eisenhauer, J., and Mahan, S.J.*
Tabor, J., takes no part.

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2011).

MAHAN, S.J.

On August 2, 2010, Yvonne Davis pleaded guilty to third-degree theft in violation of Iowa Code section 714.2(3) (2009). The district court sentenced Davis to a term of imprisonment not to exceed two years, suspended the sentence and placed her on probation with the condition that she reside in a residential facility for one year or until maximum benefits were achieved. See Iowa Code § 907.3(3) (“[T]he court may suspend the sentence and place the defendant on probation upon such terms and conditions as it may require including commitment to an alternate jail facility or a community correctional residential treatment facility”). Davis appeals and asserts the condition of probation is unreasonable. Our review is for an abuse of discretion. *State v. Valin*, 724 N.W.2d 440, 444 (Iowa 2006).

At the hearing, the State requested Davis be sentenced to a two-year term of imprisonment, pointing out Davis had a lengthy criminal history including three felony convictions and fourteen theft convictions. Davis requested she be placed on probation, arguing that she was currently receiving counseling for kleptomania and it was in society’s best interest that she be allowed to continue treatment. Davis stated that she lived alone in Marshall County, and the parties agreed there was a residential facility in Marshall County. In imposing the sentence, the court explained the State’s recommendation was appropriate, yet it suspended Davis’s sentence with strict probation conditions because Davis was receiving counseling and this would permit her to continue with that treatment.

Upon our review, we find the district court considered all the appropriate factors in imposing the sentence, including the nature of the offense, the

arguments made by counsel, and Davis's age, lengthy criminal history, and testimony regarding her treatment. See *State v. Formaro*, 638 N.W.2d 720, 724 (Iowa 2002) (discussing the factors to be considered in sentencing a defendant, which include the nature of the offense and attending circumstances; the defendant's age, character, and chances of reform; the defendant's prior record; the defendant's employment status and family circumstances; and other relevant factors). Further, given Davis's extensive criminal history, the condition of probation addressed both the need for rehabilitation and protection of the public. See Iowa Code § 901.5 (stating the court shall impose a sentence that, in the court's discretion, provides maximum opportunity for the rehabilitation of the defendant and for the protection of the community from further offenses). We find the sentence was well within the district court's discretion and the condition of probation was neither unreasonable nor arbitrary. Accordingly, we affirm.

AFFIRMED.