

IN THE COURT OF APPEALS OF IOWA

No. 14-1528
Filed November 9, 2016

STATE OF IOWA,
Plaintiff-Appellee,

vs.

LORETTA LEAH MACKENZIE,
Defendant-Appellant.

Appeal from the Iowa District Court for Scott County, Henry W. Latham II,
Judge.

Loretta Mackenzie appeals from an order revoking her probation.

AFFIRMED.

Mark C. Smith, State Appellate Defender, and Patricia Reynolds, Assistant
Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, and Jean C. Pettinger and Tyler J.
Buller, Assistant Attorneys General, for appellee.

Considered by Danilson, C.J., and Mullins and Bower, JJ.

DANILSON, Chief Judge.

On September 14, 2011, Loretta Mackenzie pled guilty to manufacturing marijuana, admitting she assisted her husband when he was physically unable to do the chores related to growing marijuana plants he used for medicinal reasons to treat his angiosarcoma¹ lesions. The court accepted her plea and, on November 3, 2011, entered a deferred judgment.

On July 10, 2013, a report of violation of probation was filed after a search warrant for the Mackenzie property was executed and officers found several marijuana plants and other items evidencing a grow operation. Mackenzie was then charged with manufacturing marijuana, possession of marijuana with intent to deliver, conspiracy to commit a nonforcible felony, and a drug-tax-stamp violation. The probation-revocation hearing was continued while proceedings in the related case proceeded. Following a jury trial, Mackenzie was found guilty of manufacturing marijuana, possessing drug paraphernalia, and failing to affix a drug tax stamp.

A probation-revocation hearing was then held on September 9, 2014. On September 10, the court entered an order revoking Mackenzie's probation and deferred judgment, and sentencing Mackenzie to a five-year indeterminate term in prison, which was suspended.²

¹ "Angiosarcoma is a cancer of the inner lining of blood vessels, and it can occur in any area of the body. The disease most commonly occurs in the skin, breast, liver, spleen, and deep tissue." <https://www.google.com/#q=angiosarcoma+treatment> (last visited October 18, 2016)

² Mackenzie was placed on probation for two years by the order deferring judgment, but by a subsequent order filed October 18, 2013, her probation was extended one year to November 3, 2014.

On appeal,³ Mackenzie asserts the district court abused its discretion in revoking probation and “fail[ing] to properly take into account the mitigating factors in this case.” While we sympathize with the family’s struggle with debilitating disease, we find no abuse of discretion by the district court.

The district court did consider all the circumstances and, in light of Mackenzie’s care-taking role for her husband, suspended her sentence. Also considering the fact her violations arise from the same conduct upon which she was originally placed upon probation, the disposition imposed was just. Finding no abuse of discretion, we affirm. See *State v. Thomas*, 547 N.W.2d 223, 225 (Iowa 1996) (noting we review for correction of errors of law, and when the sentence imposed does not exceed statutory limits and the sentencing court exercises its discretion on tenable and reasonable grounds, the sentence will not be set aside).

AFFIRMED.

³ See *State v. Farmer*, 234 N.W.2d 89, 90–91 (Iowa 1975) (finding a defendant may appeal from an order revoking a deferred judgment and probation); see also *State v. Temple*, No. 15-1293, 2016 WL 4801610, at *1 (Iowa Ct. App. Sept. 14, 2016).