

**IN THE COURT OF APPEALS OF IOWA**

No. 1-968 / 11-0920  
Filed January 19, 2012

**STATE OF IOWA,**  
Plaintiff-Appellee,

**vs.**

**KEVIN PAUL HINES,**  
Defendant-Appellant.

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Appeal from the Iowa District Court for Dallas County, Darrell J. Goodhue,  
Judge.

A defendant appeals from the sentence imposed following his guilty plea to three counts of sexual misconduct with an offender in violation of Iowa Code sections 709.16(3) and 903B.2 (2007). **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Theresa R. Wilson,  
Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Martha E. Trout, Assistant Attorney  
General, Wayne Reisetter, County Attorney, and Laura Roan, Assistant County  
Attorney, for appellee.

Considered by Vogel, P.J., Eisenhauer, J., and Sackett, S.J.\*

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

**VOGEL, P.J.**

Following his guilty plea to three counts of sexual misconduct with an offender in violation of Iowa Code sections 709.16(3) and 903B.2 (2007), Kevin Hines was sentenced to three concurrent two-year terms of imprisonment. Hines appeals and asserts the district court only considered the nature of the offense in denying his request for probation.

In our abuse of discretion review, we find the district court clearly articulated the relevant factors it considered in crafting the sentence imposed. See *State v. Formaro*, 638 N.W.2d 720, 724 (Iowa 2002) (stating “the decision of the district court to impose a particular sentence within the statutory limits is cloaked with a strong presumption in its favor”); *State v. Grandberry*, 619 N.W.2d 399, 401 (Iowa 2000) (explaining a district court’s sentencing decision to impose a sentence within the statutory limits is cloaked with a strong presumption in its favor and will only be overturned for an abuse of discretion or defect in the sentencing procedure, such as considering impermissible factors). Those factors included the arguments made by counsel, the information contained in the presentence investigation report, Hines’s statement to the court, Hines’s lack of a criminal record and regular employment history, and the nature of the offense—the fact that all three offenses happened on the same day to the same victim while Hines was in a position of authority. See *State v. August*, 589 N.W.2d 740, 744 (Iowa 1999) (“In applying discretion, the court should weigh and consider all pertinent matters in determining proper sentence, including the nature of the offense, the attending circumstances, defendant’s age, character and propensities and chances of his reform.”). The court carefully explained its

sentencing decision, ultimately concluding that probation was inappropriate because Hines committed the crimes while in a position of authority, but ordered the sentences be served concurrently because Hines committed the crimes in a short period of time to the same victim. We find the district court was well within its discretion and Hines's argument provides no basis for resentencing. Therefore, we affirm.

**AFFIRMED.**