

IN THE COURT OF APPEALS OF IOWA

No. 3-402 / 12-0817
Filed May 30, 2013

STATE OF IOWA,
Plaintiff-Appellee,

vs.

LISA ANN BAILEY,
Defendant-Appellant.

Appeal from the Iowa District Court for Cerro Gordo County, James M. Drew, Judge.

A defendant appeals her sentence following a conviction for operating while intoxicated and three traffic misdemeanors. **AFFIRMED.**

Colin C. Murphy of Law Offices of Colin C. Murphy, P.C., Clear Lake, for appellant.

Thomas J. Miller, Attorney General, Teresa Baustian, Assistant Attorney General, Carlyle D. Dalen, County Attorney, and Steven D. Tynan, Assistant County Attorney, for appellee.

Considered by Vogel, P.J., and Vaitheswaran and Bower, JJ.

VOGEL, P.J.

Lisa Bailey argues the district court abused its discretion in sentencing her for operating while intoxicated (OWI) in violation of Iowa Code section 321J.2 (2011), and three traffic-related misdemeanors. Bailey was sentenced to one year in jail, with all but thirty days suspended, and thirty days for two of the traffic violations, to be run concurrently.

A sentence imposed by the district court is reviewed for errors at law. Iowa R. App. P. 6.907. A sentence will not be upset on appeal unless the defendant demonstrates an abuse of the trial court's discretion or a defect in the sentencing procedure. *State v. Grandberry*, 619 N.W.2d 399, 401 (Iowa 2000).

Sentencing decisions of the district court are cloaked with a strong presumption in their favor. Where, as here, a defendant does not assert that the imposed sentence is outside the statutory limits, the sentence will be set aside only for an abuse of discretion. An abuse of discretion is found only when the sentencing court exercises its discretion on grounds or for reasons clearly untenable or to an extent clearly unreasonable.

State v. Thomas, 547 N.W.2d 223, 225 (Iowa 1996).

Although noting some tit-for-tat between the prosecutor and defense counsel, the district court stated it was "not going to let that interfere with my judgment of her case." It then continued to explain the reasoning for the sentences imposed:

You have a prior conviction for this offense. You smashed into a parked vehicle, causing significant property damage. You then left the scene. You then lied about your involvement. You had what I would consider to be on the higher side of tests. Obviously, I've seen a lot higher but I've seen a lot lower. It's nothing to sneeze at. And, quite frankly, of all the things I've heard this morning the most surprising is you telling me that you still maintain your innocence. I would classify the evidence against you in this case as absolutely overwhelming of your guilt, and I am mystified as to how you can

stand here in front of me today and still maintain that you weren't driving drunk. That just amazes me. And so even yet today we do have a lack of acceptance of responsibility for your actions, and that cannot be ignored.

The district court did not abuse its discretion in sentencing, and we therefore affirm without further opinion pursuant to Iowa Court Rule 21.26(1)(a) and (e).

AFFIRMED.