

IN THE COURT OF APPEALS OF IOWA

No. 3-681 / 12-2132
Filed July 24, 2013

STATE OF IOWA,
Plaintiff-Appellee,

vs.

DANO R. PHILLIPS,
Defendant-Appellant.

Appeal from the Iowa District Court for Scott County, Joel W. Barrows,
Judge.

A defendant contends the district court abused its discretion in sentencing
him. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Robert P. Ranschau,
Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Sheryl A. Soich, Assistant Attorney
General, Michael J. Walton, County Attorney, and Dion Trowers, Assistant
County Attorney, for appellee.

Considered by Eisenhauer, C.J., and Vaitheswaran and Doyle, JJ.

VAITHESWARAN, J.

Dano Phillips pled guilty to two counts of second-degree theft and one count of credit card fraud. The district court sentenced him to prison terms not exceeding five years on each of the counts, to be served concurrently.

On appeal, Phillips contends the district court abused its discretion in declining to place him on probation subject to completion of a residential substance-abuse program. See *State v. Thomas*, 547 N.W.2d 223, 225 (Iowa 1996) (“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.”).

In sentencing Phillips, the district court explained that Phillips was fifty-six years old and his criminal history dated back to 1980 and went “on for pages and pages,” with “the same type of conduct” he was “involved with here.” The court cited that criminal history in declining Phillips’s request for probation. The court also cited the “need to protect society,” his “previous failures on supervision,” and “the recommendation of the presentence investigation.” These are all pertinent matters. See *State v. Lloyd*, 530 N.W.2d 708, 713 (Iowa 1995).

We conclude the district court did not abuse its discretion in declining to order probation and in sentencing Phillips to prison. Accordingly, we affirm his sentences.

AFFIRMED.