

**IN THE COURT OF APPEALS OF IOWA**

No. 6-285 / 05-1779

Filed May 10, 2006

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

**vs.**

**QUINNETTA TRACHEL DAVIS,**  
Defendant-Appellant.

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Appeal from the Iowa District Court for Black Hawk County, Margaret L. Lingreen, Judge.

Defendant appeals her sentence, following a guilty plea, for operating while intoxicated, first offense. **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and Robert P. Ranschau, Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Ann E. Brenden, Assistant Attorney General, Thomas J. Ferguson, County Attorney, and Charity McDonell, Assistant County Attorney, for appellee.

Considered by Huitink, P.J., Miller, J., and Schechtman, S.J.\*

\*Senior Judge assigned by order pursuant to Iowa Code section 602.9206 (2005).

**SCHECHTMAN, S.J.*****I. Background Facts & Proceedings***

Quinnetta Davis entered a guilty plea to a charge of with operating while intoxicated (OWI), first offense, in violation of Iowa Code section 321J.2 (2003). The minutes of testimony were permitted to be used at sentencing by agreement. They show that on November 3, 2004, Cedar Falls police officers received a report of a hit-and-run accident. A car had driven through a residential yard, striking a parked vehicle, mailboxes, and some landscaping rocks. Police officers were able to follow a track of oil for few blocks. They discovered a vehicle owned by Davis, who was twenty-eight years of age. The vehicle had a large pool of oil underneath and shards of broken glass on its hood and roof. Davis admitted driving, but denied being in an accident. Police officers detected an odor of alcoholic beverages. She failed field sobriety tests. A breath test resulted in an alcohol level of .150.

At the sentencing hearing, the State recommended that Davis receive ninety days in the county jail, with all but four days suspended. Davis requested a deferred judgment. Davis argued:

She is currently working at Burger King. She's had to take off a semester to get finances together in order to deal with this OWI. She was attending Hamilton. She was going to attain her degree in criminal justice. She will be starting at the University of Northern Iowa in January. At that point in time she will be majoring in textile apparel and plans on attending law school after completion of her four year degree, and she hopes some day to be a corporate attorney. At this point she hopes to open her own business in fashion and apparel.

Davis also pointed out that she was involved in church work. Davis had a prior conviction in 1996 for assault by use or display of a weapon.

The district court denied the request for a deferred judgment. The court sentenced Davis to ninety days in jail, with all but four days suspended, placed her on probation for one to two years, and ordered a substance abuse evaluation. She was assessed a fine of \$1000, plus the mandatory surcharges. Davis appeals this sentence.

## **II. Standard of Review**

We review sentencing challenges for errors at law. Iowa R. App. P. 6.4; *State v. Liddell*, 672 N.W.2d 805, 815 (Iowa 2003). A sentence will not be reversed unless there has been an abuse of discretion or a defect in the sentencing procedure. *State v. Formaro*, 638 N.W.2d 720, 724 (Iowa 2002). An abuse of discretion is found when the court exercises its discretion on grounds clearly untenable or to an extent clearly unreasonable. *State v. Evans*, 672 N.W.2d 328, 331 (Iowa 2003).

## **III. Merits**

Davis contends the district court abused its discretion by refusing to grant a deferred judgment. She points out that she is employed, is a good student, has career goals, and performs assorted volunteer work for her church. Davis asserts that a criminal conviction may hinder her future career plans.

In considering a deferred judgment, the district court stated:

The reason I have not gone with deferment of judgment in this matter is basically two primary aspects of it. One was the prior conviction for assault; and that was a significant crime, ma'am. The other aspect of this is your behavior and the circumstances

surrounding this incident. You didn't stay at the scene after you hit a vehicle. You proceed to abscond to the best of your ability, to leave the scene. And for these reasons, I did decline to defer judgment in this matter feeling that in fact sentence should be imposed. And I have placed you on probation to assure that there are hopefully no further violations, and you will in fact have a successful college life from this point forward and secure all of the degrees you're hoping to secure and any licensing that you follow up with.

We find no abuse of discretion in imposition of this sentence. Davis drove a vehicle while intoxicated and was involved in a hit-and-run accident. Furthermore, she had a prior criminal conviction. The court had a legitimate and reasonable basis for refusing Davis's request for a deferred judgment. We affirm the decision of the district court.

**AFFIRMED.**