

IN THE COURT OF APPEALS OF IOWA

No. 6-453 / 05-1295
Filed June 28, 2006

STATE OF IOWA,
Plaintiff-Appellee,

vs.

WILLETTA MARIE BOGGS,
Defendant-Appellant.

Appeal from the Iowa District Court for Clinton County, C. H. Pelton,
Judge.

Willetta Marie Boggs appeals her sentence for second-degree theft and
credit card fraud. **AFFIRMED.**

Jack Schwartz of Jack A. Schwartz & Associates, Rock Island, Illinois, for
appellant.

Thomas J. Miller, Attorney General, Karen Doland, Assistant Attorney
General, and Michael L. Wolf, County Attorney for appellee.

Considered by Mahan, P.J., and Hecht and Eisenhauer, JJ.

MAHAN, P.J.

Willetta Marie Boggs appeals her sentence for second-degree theft in violation of Iowa Code section 714.2(2) (2003) and credit card fraud in violation of section 715A.6. She argues the district court erred when it failed to (1) adhere to her plea agreement and (2) allow her the opportunity to withdraw her guilty plea. We affirm.

I. Background Facts and Proceedings

Boggs was charged with one count of second-degree theft and four counts of credit card fraud. She agreed to plead guilty to second-degree theft and one count of credit card fraud. In exchange, the State agreed to dismiss three of the credit card fraud charges, recommend a suspended sentence with supervised probation and the minimum fine for the second-degree theft charge, and forty-five days in jail for the credit card fraud charge. According to the agreement, the jail term was to run concurrently with the theft conviction and prior sentence imposed in Illinois.

Boggs pleaded guilty to second-degree theft and one count of credit card fraud on June 9, 2005. The court informed her of the nature of the charges, the mandatory minimum and maximum punishment, and her constitutional rights. It also informed her that she had to file a motion in arrest of judgment to challenge her guilty plea.

Sentencing was held on June 9, 2005. Boggs's attorney explained that she had been sentenced to ninety days in jail in Illinois for crimes arising out of the same set of circumstances of the crimes for which she pleaded guilty in Iowa. He stated that she served ten of the ninety days in jail in Illinois, then was

released, with an electronic monitoring device, to her parents' home. Boggs's attorney argued that the court should "sentence her in accordance with this plea agreement and—and allow the electronic home monitoring in Illinois to equal what would be the rest of the jail sentence here in Iowa." When the court asked what the State thought of Boggs's argument, it declined to comment but stood by the language of the agreement. Ultimately, the court declined to sentence Boggs to electronic home monitoring. Instead, she was sentenced to a suspended sentence of five years and was placed on probation for two years for the second-degree theft conviction. For the credit card fraud conviction, she was sentenced to six months with all but forty-five days suspended. She was given ten days credit for the time she served in jail in Illinois.

II. Standard of Review

We review sentencing decisions for abuse of discretion. *State v. Alloway*, 707 N.W.2d 582, 584 (Iowa 2006).

III. Merits

Boggs argues the district court erred when it failed to follow "the essence" of the plea agreement and sentenced her to jail time rather than electronic home monitoring. She further argues that because the court varied from the plea agreement, it should have given her the opportunity to withdraw her plea.

According to the "Calendar Entry of Plea Agreement Proceedings," which Boggs, her attorney, and the prosecutor signed, the sentences in Iowa and Illinois are to run concurrently. No mention is made of home electronic monitoring. There is also no mention of home electronic monitoring in the "Plea of Guilty" Boggs and her attorney signed. At her sentencing hearing, the State

declined to support Boggs's argument that the plea agreement intended home electronic monitoring. Though Boggs argues the word "concurrent" means that her Iowa sentence should also be served at home, we decline to assign such a meaning to the word. The district court's sentence complies with the plea agreement. The district court ruling is affirmed.

AFFIRMED.