

IN THE COURT OF APPEALS OF IOWA

No. 6-499 / 05-1819

Filed July 12, 2006

STATE OF IOWA,
Plaintiff-Appellee,

vs.

LARRY EUGENE MORRIS,
Defendant-Appellant.

Appeal from the Iowa District Court for Jasper County, Gregory A. Hulse,
Judge.

Defendant appeals his sentence for willful injury and going armed with
intent. **AFFIRMED.**

Steven J. Holwerda of Selby, Updegraff, Smith & Holwerda, Newton, for
appellant.

Thomas J. Miller, Attorney General, Linda J. Hines, Assistant Attorney
General, Steve Johnson, County Attorney, and Scott Nicholson, Assistant County
Attorney, for appellee.

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

EISENHAUER, J.

Larry Eugene Morris appeals from the sentence entered upon his guilty plea for willful injury and going armed with intent. Morris asserts the district court abused its discretion in ordering an excessive sentence. A sentence within statutory limits is reviewed for an abuse of discretion. *State v. Cooley*, 587 N.W.2d 752, 754 (Iowa 1998). An abuse of discretion is found when the sentencing court's decision is based on grounds or reasons that are clearly untenable or unreasonable. *State v. Tesch*, 704 N.W.2d 440, 447 (Iowa 2005).

Morris pleaded guilty to willful injury under Iowa Code section 708.4(2) (2005) and going armed with intent under section 708.8. As part of the plea agreement, the State agreed to "recommend" consecutive probation terms on each count. The court accepted Morris's plea. At sentencing, the State recommended five years' imprisonment on each count, but that the sentences run consecutively and be suspended in their entirety. The district court sentenced Morris to an indeterminate term of five years' imprisonment on each count with the sentences to run concurrently—a sentence within statutory limits.

Morris argues that the district court abused its discretion in not sentencing him to probation. When selecting a particular sentence, the court must consider various factors including the circumstances of the case; the nature of the offense; the defendant's age, character, and propensities; and chances of reform. *State v. Formaro*, 638 N.W.2d 720, 724-25 (Iowa 2002). Furthermore, before deferring judgment or suspending sentence, the court must additionally consider the defendant's prior record of convictions or deferred judgments, employment

status, family circumstances, and any other relevant factors, as well as which of the sentencing options would satisfy the societal goals of sentencing. *Id.* at 725.

Here, the district court clearly considered the requisite factors, stating, “I have considered the defendant’s age, his prior record, his prior deferred judgment, his employment circumstances, his family circumstances, and the nature of the offense.” Moreover, the court stated this was “not a case to grant probation” because such would “unduly depreciate the seriousness of the offenses” and there is a “need to protect the public from further criminal activity by this defendant.” The district court did not abuse its discretion.

AFFIRMED.