

IN THE COURT OF APPEALS OF IOWA

No. 6-631 / 05-1982
Filed September 21, 2006

STATE OF IOWA,
Plaintiff-Appellee,

vs.

STEVEN LAMAR LANIER,
Defendant-Appellant.

Appeal from the Iowa District Court for Linn County, David M. Remley,
Judge.

Steven Lamar Lanier appeals the sentence imposed upon his conviction
for burglary in the third degree. **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and James Tomka, Assistant
Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Sheryl Soich, Assistant Attorney
General, Harold L. Denton, County Attorney, and Russell Keast, Assistant
County Attorney, for appellee-State.

Considered by Vogel, P.J., and Miller and Eisenhauer, JJ.

MILLER, J.

Steven Lamar Lanier appeals the sentence imposed upon his conviction for burglary in the third degree. He contends the district court abused its discretion in imposing a term of incarceration instead of a suspended sentence. We affirm.

The State charged Lanier, by trial information, with second degree burglary. Lanier pled guilty to, and was convicted of, the lesser included offense of burglary in the third degree, a class “D” felony, in violation of Iowa Code sections 713.1 and 713.6A (2001). The presentence investigator and the State both recommended a five-year prison term. Lanier asked for “probation” or “other possible methods.” The district court sentenced Lanier to an indeterminate term of incarceration not to exceed five years. On appeal he contends the court abused its discretion in imposing a term of incarceration instead of a suspended sentence.

A sentence imposed by the district court is reviewed for errors at law. *State v. Grandberry*, 619 N.W.2d 399, 401 (Iowa 2000). The decision of the district court to impose a particular sentence that is within the statutory limits, as it is here, “is cloaked with a strong presumption in its favor, and will only be overturned for an abuse of discretion or the consideration of inappropriate matters.” *State v. Formaro*, 638 N.W.2d 720, 724 (Iowa 2002). An abuse of discretion will not be found unless the defendant shows that such discretion was exercised on grounds or for reasons clearly untenable or to an extent clearly unreasonable. *Id.*; *State v. Loyd*, 530 N.W.2d 708, 713 (Iowa 1995).

Based on the crime for which Lanier was convicted, the district court had the discretion to choose among several sentencing options, including a suspended sentence and probation, and the five-year prison term it imposed. See Iowa Code §§ 901.5, 902.9(5), 907.3. The court should consider all pertinent matters in determining the proper sentence. *State v. August*, 589 N.W.2d 740, 744 (Iowa 1999). Some of the “minimal essential factors” to be considered when exercising sentencing discretion include the nature of the offense, the attending circumstances, and the defendant’s age, character, propensities, and chances of reform. *State v. Hildebrand*, 280 N.W.2d 393, 396 (Iowa 1979). Other factors the court should consider include the defendant’s family circumstances and any prior record of convictions. *State v. Kelley*, 357 N.W.2d 638, 639 (Iowa Ct. App. 1984). No one factor is to be solely determinative. *State v. Johnson*, 513 N.W.2d 717, 719 (Iowa 1994). The court must exercise the sentencing option that would “best accomplish justice both for society and for the individual defendant” after considering all the pertinent factors. *Hildebrand*, 280 N.W.2d at 396. However, the right of the individual judge to balance the relevant factors inheres in the discretionary standard. *State v. Wright*, 340 N.W.2d 590, 593 (Iowa 1983).

In sentencing Lanier the district court expressly considered: the presentence investigation report, which included Lanier’s age and prior record of convictions; the fact that Lanier failed to appear for his original sentencing and then absconded for over two years; the statements made by Lanier and his counsel; both parties’ recommendations and the recommendation of the

presentence investigator; and the circumstances surrounding the offense. It also heard and considered a statement by the victim. The court stated its belief and intent that the sentence was “to hold the Defendant accountable and the best means to provide this Defendant with the maximum opportunity for rehabilitation; also to deter others who might have intentions of failing to show for sentencing.”

We conclude the district court acted well within its discretion in choosing to impose the prison term instead of a suspended sentence and probation, especially considering Lanier’s two years plus at large after his failure to appear at both a scheduled pretrial conference and his originally scheduled sentencing. The court did not abuse its discretion in imposing a term of incarceration and declining to suspend it.

AFFIRMED.