

**IN THE COURT OF APPEALS OF IOWA**

No. 8-131 / 07-1506  
Filed February 27, 2008

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

**vs.**

**CASEY DUWAIN DODD,**  
**a/k/a CASEY MITCHELL,**  
Defendant-Appellant.

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Appeal from the Iowa District Court for Dallas County, Virginia Cobb,  
District Associate Judge.

Casey Dodd appeals from the sentence entered upon his guilty plea to  
extortion. **AFFIRMED.**

Alfredo Parrish of Parrish, Kruidenier, Dunn, Boles, Gribble, Cook, Parrish,  
Gentry & Fisher, L.L.P., Des Moines, for appellant.

Thomas J. Miller, Attorney General, Karen Doland, Assistant Attorney  
General, and Wayne Reisetter, County Attorney, for appellee.

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

**BAKER, J.**

Following a guilty plea to extortion, in violation of Iowa Code section 711.4 (2005), Casey Dodd was sentenced to five years imprisonment. The court suspended the sentence and placed Dodd on supervised probation for two years. On appeal from that conviction and sentence, Dodd claims the court erred in considering improper factors at sentencing. He also claims it was an abuse of discretion for the court to decline his request for a deferred judgment. Dodd requests remand for resentencing.

Our scope of review of sentencing decisions is for correction of errors at law. Iowa R. App. P. 6.4; *State v. Thomas*, 547 N.W.2d 223, 225 (Iowa 1996). Our standard of review is for an abuse of discretion or for defects in the sentencing procedure. *State v. Cason*, 532 N.W.2d 755, 756 (Iowa 1995).

***Consideration of Improper Factors.***

Dodd first lists a variety of allegedly improper factors, both factual and legal, that the court relied on. In particular, he contends the court erroneously (1) stated Dodd invaded the home of the victim, (2) relied on the unproven assertion the victim and his family were under duress and experiencing financial difficulties, (3) commented on how a friend reacted under stressful family conditions, and (4) understood a deferred judgment would still show up on a background check.

We conclude the record demonstrates that the court appropriately weighed a number of factors and made a sufficient statement of its reasons for imposing the sentence. The court considered the nature of the offense, the attending circumstances, and the defendant's age and character in sentencing

him. Moreover, while the court did make some personal observations in pronouncing sentence, we do not find them improper.

Judicial discretion imparts the power to act within legal parameters according to the dictates of a judge's own conscience, uncontrolled by the judgment of others. It is essential to judging because judicial decisions frequently are not colored in black and white. Instead, they deal in differing shades of gray, and discretion is needed to give the necessary latitude to the decision-making process. This inherent latitude in the process properly limits our review. Thus, our task on appeal is not to second guess the decision made by the district court, but to determine if it was unreasonable or based on untenable grounds

*State v. Formaro*, 638 N.W.2d 720, 724-25 (Iowa 2002).

***Abuse of Discretion in Sentencing.***

We reject Dodd's next claim that the court abused its discretion in denying his request for a deferred judgment. The sentencing option chosen by the court was clearly a statutorily permissible one. By merely highlighting the factors he believes entitled him to a deferred judgment, Dodd has failed to show the court "exercise[d] its discretion on grounds or for reasons clearly untenable or to an extent clearly unreasonable." See *State v. Peters*, 525 N.W.2d 854, 859 (Iowa 1994). As our supreme court has stated,

"[e]ach judge must grapple with the facts and circumstances in the case before him and arrive at the sentence he regards as right. The sentencing function of judges is an arduous and a lonely one, but it is part of judging."

*State v. Jackson*, 204 N.W.2d 915, 916 (Iowa 1973). We affirm the sentence.

**AFFIRMED.**