

IN THE COURT OF APPEALS OF IOWA

No. 8-618 / 07-2141
Filed August 27, 2008

STATE OF IOWA,
Plaintiff-Appellee,

vs.

JOHN RAY TAYLOR,
Defendant-Appellant.

Appeal from the Iowa District Court for Story County, Steven P. Van Marel, District Associate Judge.

John Ray Taylor appeals the sentence imposed upon his conviction, following a plea of guilty, to operating while intoxicated. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Robert Ranschau, Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Bridget Chambers, Assistant Attorney General, Stephen Holmes, County Attorney, and Mary Howell Sirna, Assistant County Attorney, for appellee.

Considered by Sackett, C.J., and Miller and Potterfield, JJ.

MILLER, J.

John Ray Taylor pled guilty to operating while intoxicated, first offense, after being charged with that offense when a breath test revealed he had operated a motor vehicle while having an alcohol concentration of 0.117. At sentencing the district court imposed a sentence which, with the exception of a one-year period of probation recommended by the State, opposed by Taylor, and imposed by the court, was recommended by both the State and Taylor. Taylor appeals.

A sentence imposed by the district court is reviewed for errors at law. Iowa R. App. P. 6.4; *State v. Grandberry*, 619 N.W.2d 399, 401 (Iowa 2000). A sentence will not be upset on appellate review unless the defendant demonstrates an abuse of district court discretion or a defect in the sentencing procedure. *Grandberry*, 619 N.W.2d at 401. Taylor's sentence is within statutory limits, and he claims only that the district court abused its discretion in imposing probation. Our review is thus for an abuse of discretion. *State v. Gibb*, 303 N.W.2d 673, 687 (Iowa 1981). The court's sentencing decision enjoys a strong presumption in its favor which will not be overcome absent an affirmative showing that the court abused its discretion. *State v. Sumpter*, 438 N.W.2d 6, 10 (Iowa 1989). The burden of showing an abuse of discretion is on the defendant. *State v. Stanley*, 344 N.W.2d 564, 568 (Iowa Ct. App. 1983).

Although the last of Taylor's convictions of such a nature occurred in 1995, the record shows that he has several previous convictions, including several alcohol-related and controlled-substance related convictions. Taylor is

forty-two years of age. The district court considered the nature and circumstances of the offense, as well as Taylor's similar, prior criminal convictions. It cogently stated reasons for concluding that under the circumstances a period of supervision on probation was appropriate and necessary in order to monitor Taylor's behavior. We find no abuse of the court's broad sentencing discretion and accordingly affirm.

AFFIRMED.