

IN THE COURT OF APPEALS OF IOWA

No. 8-691 / 08-0714
Filed September 17, 2008

STATE OF IOWA,
Plaintiff-Appellee,

vs.

SHANNON LYNN TELFER,
Defendant-Appellant.

Appeal from the Iowa District Court for Linn County, Angeline M. Wilson,
Judge.

Defendant appeals her sentence claiming she was not awarded her right
of allocution. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Shellie L. Knipfer, Assistant
State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Mary E. Tabor, Assistant Attorney
General, Harold Denton, County Attorney, and Jason Burns, Assistant County
Attorney, for appellee.

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

EISENHAUER, J.

Shannon Telfer seeks resentencing arguing she was denied her right of allocution. We affirm.

On February 21, 2007, Telfer pled guilty to possession of prescription drugs and possession of drug paraphernalia. The court accepted Telfer's plea, granted a deferred judgment, and placed her on self-supervised probation. The probationary fees, court costs, and community service were to be paid and completed within six months.

When Telfer did not complete her probationary requirements, a hearing was held on April 4, 2008. Telfer testified she did not fulfill her requirements because "she started having really bad panic attacks" and was not able to function at work or in school. In October 2007, she started treatment for panic attacks, anxiety and depression. Additionally, during this time she had a difficult pregnancy which included post-partum depression. Telfer testified her situation had now improved and sought an extension of time to meet her probationary terms. At the end of her testimony, Telfer's attorney asked her, "Do you have anything else you would like to tell the Court?" Telfer replied, "Not that I can think of, no."

The State argued there was no attempt to make minimal payments and no minimal amount of community service completed. The State further noted Telfer had recently been charged with a new offense, criminal trespass.

The court revoked Telfer's probation and found her guilty of the unlawful possession charge. The court stated:

Usually what happens to people is I send them to jail because I think that they need to have some time to think about the fact that

they've screwed up their probation. But based on all the information I have, I'm not going to do that in your case.

Telfer was sentenced to pay the minimum fine of \$315, but was allowed to substitute community service for the fine. The court ordered Telfer to complete her sentence within a four-month deadline, but allowed her to seek a deadline extension as long as she had started to make progress, stating:

I don't care if your payments are five bucks, two bucks, just be making payments on it. . . . As long as you are making an effort, we'll work with you. But the key is always to show us that you're making an effort.

Telfer requests we vacate her sentence and remand for resentencing. She argues she did not receive her right of allocution as mandated in Iowa Rule of Criminal Procedure 2.23(3)(d). The rule provides the defendant "shall be allowed to address the court" if she "wishes to make a statement in mitigation of punishment." *Id.* Our review of sentencing procedures is for an abuse of discretion. *State v. Duckworth*, 597 N.W.2d 799, 800 (Iowa 1999).

There is no particular language required in order to satisfy rule 2.23(3)(d). *State v. Craig*, 562 N.W.2d 633, 635 (Iowa 1997). Substantial compliance is sufficient. *Id.* "The important thing is whether the defendant is given an opportunity to volunteer any information helpful to the defendant's cause." *Id.*

We find no abuse of discretion. Telfer testified to her numerous mitigating circumstances and was asked, "Do you have anything else you would like to tell the Court?" The record therefore shows she was given an opportunity to address the court and make a statement in mitigation of punishment. We affirm her sentence.

AFFIRMED.