

IN THE COURT OF APPEALS OF IOWA

No. 8-735 / 08-0710
Filed October 1, 2008

STATE OF IOWA,
Plaintiff-Appellee,

vs.

JAMES STEVEN ONNEN,
Defendant-Appellant.

Appeal from the Iowa District Court for Calhoun County, William C. Ostlund, Judge.

The defendant appeals from the sentence imposed by the district court following his plea of guilty to second-offense operating while intoxicated.

AFFIRMED.

Kurt T. Pittner, Fort Dodge, for appellant.

Thomas J. Miller, Attorney General, Jean Pettinger, Assistant Attorney General, Meredith Friedman, Intern, and Cynthia Voorde, County Attorney, for appellee.

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

EISENHAUER, J.

James Onnen appeals from the sentence imposed by the district court following his plea of guilty to second-offense operating while intoxicated (OWI). He contends the court abused its discretion in sentencing him to prison instead of granting him probation. We review sentencing orders for correction of errors at law and will not overturn sentencing orders absent an abuse of discretion. *State v. Liddell*, 672 N.W.2d 805, 815 (Iowa 2003).

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).

The court heard the testimony of Onnen's friend and a neighbor. They described his good qualities and helpful nature. A substance abuse counselor also testified and opined that Onnen's prognosis for recovery was very good and the likelihood of relapse was small. However, when pronouncing sentence, the court cited Onnen's need for treatment to prevent future injury to someone and found Onnen's numerous convictions for alcohol-related offenses, including three prior OWI convictions, “suggest[] that it's going to occur again.” Given the risk this put the community at, he found incarceration was necessary. *Hildebrand*, 280 N.W.2d at 396 (holding the court must choose the sentencing option that

would “best accomplish justice both for society and for the individual defendant” after considering all the pertinent factors). Upon review, we conclude the court was within its discretion to do so. Accordingly, we affirm.

AFFIRMED.