

IN THE COURT OF APPEALS OF IOWA

No. 9-611 / 09-0336
Filed August 19, 2009

STATE OF IOWA,
Plaintiff-Appellee,

vs.

MICHAEL SHAWN HASSTEDT,
Defendant-Appellant.

Appeal from the Iowa District Court for Black Hawk County, George L. Stigler, Judge.

Michael Hasstedt appeals his sentence following guilty pleas to three counts of driving while license barred. **AFFIRMED.**

Caitlin L. Slessor of Nazette, Marner, Nathanson & Shea, L.L.P., Cedar Rapids, for appellant.

Thomas J. Miller, Attorney General, Mary Tabor, Assistant Attorney General, Scott Wadding, Legal Intern, Thomas J. Ferguson, County Attorney, and Brook Jacobsen, Assistant County Attorney, for appellee.

Considered by Vogel, P.J., and Potterfield, J. and Beeghly, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2009).

POTTERFIELD, J.**I. Background Facts and Proceedings**

In a hearing on January 30, 2009, Michael Hasstedt was sentenced for second-degree criminal mischief in violation of Iowa Code section 716.4 (2005), fourth-degree theft in violation of Iowa Code section 714.2(4), and three separate charges of driving while barred in violation of Iowa Code sections 321.560 and 321.561 (2007).¹ Hasstedt argued for a suspended sentence on all counts. The State recommended the maximum two-year imprisonment for each driving while barred charge, the sentences to run concurrently with each other and consecutively with the five-year sentence for the criminal mischief charge. The district court sentenced Hasstedt to a prison term of no more than two years for each of the three driving while barred charges, the sentences to run concurrently with each other and concurrently with the five-year sentence for the criminal mischief charge. Hasstedt appeals, arguing the sentence is unreasonable. He believes the district court should have granted his request for suspended sentences on his driving while barred charges.

II. Standard of Review

A sentence should only be disturbed upon a showing that the district court abused its discretion. *State v. Garrow*, 480 N.W.2d 256, 259 (Iowa 1992). There is a strong presumption that the district court properly exercised its discretion. *State v. Pappas*, 337 N.W.2d 490, 494 (Iowa 1983).

¹ Hasstedt was charged with driving while barred on June 30, 2008, November 25, 2008, and December 13, 2008. The appeal relates only to the sentences for the driving while barred convictions although the five-year sentence for criminal mischief is the controlling sentence.

III. Reasonableness of Sentence

In determining which sentencing option is appropriate, Iowa Code section 901.5 instructs a sentencing court to determine which option will “provide maximum opportunity for the rehabilitation of the defendant, and for the protection of the community from further offenses by the defendant.” “The trial court . . . should weigh and consider all pertinent matters in determining proper sentence, including the nature of the offense, the attending circumstances, defendant’s age, character and propensities and chances of his reform.” *State v. Hildebrand*, 280 N.W.2d 393, 396 (Iowa 1979). Hasstedt argues the district court imposed an unreasonable sentence without properly considering his employment and chance for rehabilitation if given a suspended sentence.

The district court evaluated the factors mentioned above, including Hasstedt’s military service, the nature of the offenses, and Hasstedt’s “awful” criminal record, including seven prior convictions for driving-related offenses. At the sentencing hearing, the State noted that all three of the driving while barred incidents at issue occurred while Hasstedt was either on parole or while other criminal matters were pending. The State further asserted that, given Hasstedt’s criminal background, “Obviously the threat of prison time, the threat of serious charges being held over his head wasn’t sufficient to prevent the defendant from continually violating the law”

The district court found that Hasstedt’s criminal record suggested rehabilitation would not likely be successful, stating, “I haven’t heard anything this morning that would cause me to believe that . . . tomorrow, the day after tomorrow, next month, if [Hasstedt] weren’t in prison, that he wouldn’t be back

out there driving yet again.” Thus, the district court found imposing a suspended sentence would likely fail to rehabilitate Hasstedt and would put the community at risk if Hasstedt continued to drive. The fact that Hasstedt is employed does not outweigh his recidivism and in fact may increase the probability that he would drive illegally, as his driving charges generally were acquired while Hasstedt was driving to work. We believe the district court properly considered the relevant factors and imposed a sentence well within its discretion.

AFFIRMED.