

**IN THE COURT OF APPEALS OF IOWA**

No. 9-648 / 08-2032  
Filed September 2, 2009

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

**vs.**

**GUY LEE WILLIAMS,**  
Defendant-Appellant.

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Appeal from the Iowa District Court for Henry County, Cynthia Danielson,  
Judge.

Appeal from the sentence imposed following a guilty plea. **AFFIRMED.**

Eric Tindal of Nidey Peterson Erdahl & Tindal, Williamsburg, for appellant.

Thomas J. Miller, Attorney General, Cristen Douglass, Assistant Attorney  
General, Darin Stater, County Attorney, and Edward Harvey, Assistant County  
Attorney, for appellee.

Considered by Sackett, C.J., and Eisenhauer and Doyle, JJ.

**SACKETT, C.J.**

Guy Williams appeals from the sentence imposed following his guilty plea to possession with intent to deliver ten grams or less of cocaine base. He contends the court “committed clear error” in sentencing by focusing only on his criminal history in determining the appropriate sentence. We affirm.

Williams was charged by trial information in November of 2007. In November of 2008 he entered a guilty plea to the charge. The court ordered a presentence investigation. At sentencing, Williams requested a suspended sentence and probation conditioned on successful completion of drug treatment at the Iowa Residential Treatment Center. The court sentenced him to an indeterminate term of incarceration not to exceed ten years and imposed a fine of \$1000 plus applicable surcharges. Williams appeals.

We review challenges to sentences for errors at law. Iowa R. App. P. 6.4 (2008); *State v. Grandberry*, 619 N.W.2d 399, 401 (Iowa 2000). We will not disturb a sentence “unless the defendant demonstrates an abuse of trial court discretion or a defect in the sentencing procedure, such as trial court consideration of impermissible factors.” *Id.* (citations omitted). “An abuse of discretion is found when the court exercises its discretion on grounds clearly untenable or to an extent clearly unreasonable.” *State v. Evans*, 672 N.W.2d 328, 331 (Iowa 2003). There is a strong presumption in favor of a sentence given by a trial court that is rebutted only by an affirmative showing of an abuse of discretion. *State v. Bentley*, 757 N.W.2d 257, 262 (Iowa 2008). A trial court, within the limits of applicable statutes, has discretion to select a sentence that

affords the defendant the maximum opportunity for rehabilitation yet protects the community from further offenses by the defendant. *State v. Formaro*, 638 N.W.2d 720, 724 (Iowa 2002); see Iowa Code § 901.5 (2007).

The court had before it and considered the presentence investigation, the defendant's addendum containing personal information, the defendant's wife's testimony concerning his substance abuse problem and his family's need for him to be a father, and the defendant's statements made at the sentencing hearing. It is very clear from the transcript of the proceedings that the court considered the defendant's age, personal background, family situation and responsibilities, loss of his mother and brother, significant criminal history, lack of favorable response to the need for substance abuse treatment, need for emotional and grief counseling, and lack of rehabilitation from prior incarcerations. The court considered the services available in the community and in prison. It balanced society's need for protection from the defendant with his need for and potential for rehabilitation. It considered the sentencing recommendations of the State and defense counsel. The sentence imposed, including waiver of the mandatory minimum term and the court's statements about that waiver, demonstrate the court clearly and carefully exercised its discretion in choosing the sentence best fitted for the defendant at that time. We find the defendant's claim the court improperly focused only on his criminal history to be unsupported by the record and without merit.

**AFFIRMED.**