

IN THE COURT OF APPEALS OF IOWA

No. 9-722 / 09-0458
Filed October 7, 2009

STATE OF IOWA,
Plaintiff-Appellee,

vs.

JUSTIN WILLIAM PATTEN,
Defendant-Appellant.

Appeal from the Iowa District Court for Des Moines County, John G. Linn,
Judge.

Justin Patten appeals from his sentence following his plea of guilty to
possession of a controlled substance, third offense. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Thomas J. Gaul, Assistant
State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Darrel Mullins, Assistant Attorney
General, Patrick C. Jackson, County Attorney, and Lisa Taylor, Assistant County
Attorney, for appellee.

Considered by Vaitheswaran, P.J., and Mansfield, J., and Schechtman,
S.J.*

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

SCHECHTMAN, S.J.

Justin Patten appeals from his sentence following his plea of guilty to possession of a controlled substance (marijuana), third offense, in violation of Iowa Code section 124.401(5) (2007). He contends the court abused its discretion in sentencing him to a term of imprisonment not to exceed five years. Patten proposes that a suspended sentence, with supervised probation and substance abuse care, was warranted. This assertion is based on his age (twenty-four), the small amount of marijuana involved, the lack of a felony conviction in the past six years, his employment, and his enrollment in welding classes at a community college. We affirm.

On the afternoon of August 18, 2008, Patten was arrested for driving with a suspended license and non-payment of fines. At the time, he was in possession of 1.04 grams of marijuana. Patten was charged with possession of a controlled substance, third offense, and pled guilty.

At the sentencing hearing on March 9, 2009, the court reviewed the presentence investigation report, considered the statements of counsel, Patten's comments, and reviewed the court file. It acknowledged its obligation to arrive at a sentence that will provide maximum opportunity for his rehabilitation and will protect the community from further offenses by the defendant and others. In arriving at its decision to sentence Patten to a term of incarceration, the court recited some factors that would tend to favor probation; his marginally young age, a non-violent crime, employment, enrollment in a welding program, acquiring a GED, and family ties to southeastern Iowa. The court recited the

many factors which justified confinement to prison, including a poor work record, a continuing substance abuse problem after receiving substance abuse treatment, a lengthy criminal record, three previous felony convictions, a conviction of escape from a residential facility, previous probations, a parole violation resulting in its revocation, and the recommendations of the prosecutor and probation officer. The court concluded, “In balancing these factors . . . this is a defendant who can only be rehabilitated in a confined, structured facility. The factors in this case justify the imposition of confinement.”

Our review of a sentence imposed in a criminal case is for correction of errors at law. *State v. Formaro*, 638 N.W.2d 720, 724 (Iowa 2002). However, the decision of the district court to impose a particular sentence within the statutory limits is cloaked with a strong presumption in its favor, and will only be overturned for an abuse of discretion or the consideration of improper matters. *Id.* In applying the abuse of discretion standard to sentencing decisions, it is important to consider the societal goals of sentencing criminal offenders, which focus on rehabilitation of the offender and the protection of the community from further offenses. *Id.* An abuse of sentencing discretion is found only if the sentencing court’s discretion has been exercised on grounds or for reasons clearly untenable or to an extent clearly unreasonable. *State v. Laffey*, 600 N.W.2d 57, 62 (Iowa 1999).

The district court considered and weighed multiple appropriate factors which appear to provide for the defendant’s rehabilitation as well as the

protection of the community. See Iowa Code § 901.5. We find no abuse of discretion. Accordingly, we affirm.

AFFIRMED.