

IN THE COURT OF APPEALS OF IOWA

No. 3-577 / 12-1351
Filed August 7, 2013

STATE OF IOWA,
Plaintiff-Appellee,

vs.

BYRON WARD CLAYTON,
Defendant-Appellant.

Appeal from the Iowa District Court for Polk County, Michael D. Huppert,
Judge.

Defendant appeals the court's sentence of incarceration. **AFFIRMED.**

Benjamin D. Bergmann of Parrish, Kruidenier, Dunn, Boles, Gribble,
Gentry, and Fisher, L.L.P., Des Moines, for appellant.

Thomas J. Miller, Attorney General, Sharon K. Hall, Assistant Attorney
General, John P. Sarcone, County Attorney, and Joseph D. Crisp, Assistant
County Attorney, for appellee.

Considered by Eisenhauer, C.J., and Potterfield and Tabor, JJ.

EISENHAUER, C.J.

Byron Ward Clayton appeals the sentence imposed following his plea of guilty to third offense possession of a controlled substance (methamphetamine), as an habitual offender. He contends the court abused its discretion in sentencing him to prison, rather than probation and allowing him to seek mental health and substance abuse treatment through the Veteran's Administration (V.A.). We affirm.

In April 2012, Clayton entered a guilty plea to the possession charge as enhanced. In exchange, the State agreed to dismiss a drug paraphernalia charge. By agreement, each party could argue for any available sentence.

Defense counsel submitted a sentencing memorandum. The presentence investigation report recommended a suspended sentence with probation. At the June sentencing hearing defense counsel discussed Clayton's mental health and substance abuse issues, and V.A. treatment. Counsel argued the best way to address Clayton's substance abuse problems was to order treatment during probation, not prison. The State sought incarceration and noted the court's past efforts to tailor supervision were unsuccessful. Also, Clayton had failed to follow through with the aftercare component of a prior treatment program. The court ordered Clayton to serve up to fifteen years in prison, with a mandatory minimum term of three years.

Clayton appeals and argues the court abused its discretion when it sentenced him to incarceration. We review sentencing decisions for correction of errors at law. *State v. Valin*, 724 N.W.2d 440, 444 (Iowa 2006). "Sentencing decisions of the district court are cloaked with a strong presumption in their

favor.” *State v. Thomas*, 547 N.W.2d 223, 225 (Iowa 1996). We review the sentence imposed for abuse of discretion. *State v. Zaruba*, 306 N.W.2d 772, 732 (Iowa 1981). Clayton must establish the court’s “discretion was exercised only on grounds or for reasons clearly untenable or to an extent clearly unreasonable.” *Id.* Additionally, “a sentencing court need only explain its reasons for selecting the sentence imposed and need not explain its reasons for rejecting a particular sentencing option.” *State v. Ayers*, 590 N.W.2d 25, 28 (Iowa 1999).

Clayton contends the court (1) failed to weigh all pertinent factors, (2) improperly considered his lack of employment, and (3) failed to provide opportunities for maximum rehabilitation.

The sentencing court carefully reviewed the PSI and defense counsel’s memorandum and explained why it was not placing much weight “on the purported facts contained within the sentencing memorandum.” The court recognized Clayton’s “most recent criminal history is limited and . . . his military service should be considered as a mitigating factor.” The court ruled: “[T]aking into account your age, your criminal history, the circumstances of this offense, and the relative lack of progress that you have shown while this case has been pending, those factors outweigh any mitigating circumstances as represented by your most recent limited criminal history and your military service.” The court imposed a sentence within the limits imposed by the statute. Finding no abuse of discretion, we affirm.

AFFIRMED.