

**IN THE COURT OF APPEALS OF IOWA**

No. 8-894 / 08-0808  
Filed November 13, 2008

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

**vs.**

**LORI MARIE CHILDERS,**  
Defendant-Appellant.

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Appeal from the Iowa District Court for Muscatine County, Gary P. Strausser, District Associate Judge.

Lori Childers appeals from her sentence following her guilty plea to the charge of driving while barred. **AFFIRMED.**

David Scieszinski, Wilton, for appellant.

Thomas J. Miller, Attorney General, Mary Tabor and Kyle Hanson, Assistant Attorneys General, Gary Allison, County Attorney, and Korie Shipee, Assistant County Attorney, for appellee.

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

**DOYLE, J.**

Lori Childers appeals from her sentence following her plea of guilty to driving while barred. She claims the trial court abused its discretion in sentencing her to serve a jail sentence and pay a fine.

***I. Background Facts and Proceedings.***

The minutes of evidence indicate that on August 29, 2007, a Wilton police officer observed Lori Childers operating a vehicle. The officer had been previously advised that Childers's driving privileges had been barred. After conducting a traffic stop, Childers stated to the officer that she did not have a driver's license and was barred. After confirming the barred driving status, the officer placed Childers under arrest and seated her in the squad car. As the officer began conducting an inventory of Childers's vehicle, she could smell a strong odor of marijuana, and she found four partially smoked cigars with a green leafy substance in the ashtray. The officer also found a colored glass pipe in the glove box, as well as unpackaged marijuana tucked in between some papers.

On October 3, 2007, Childers was charged by trial information with driving while barred in violation of Iowa Code sections 321.560 and 321.561 (2007) (Count I) and possession of a controlled substance (marijuana) in violation of section 124.401(5) (Count II). On April 22, 2008, Childers filed a written guilty plea to the driving while barred charge and waived filing a motion in arrest of judgment. She appeared in open court and pleaded guilty to the driving while barred charge and consented with going forward with sentencing. The State recommended 150 days in jail, with ninety days suspended, and a \$625 fine. Childers agreed to the fine, but requested her incarceration be suspended or that

the court grant her in-home detention with work release. The court sentenced Childers to pay a fine of \$625 and incarceration of 365 days in county jail, with all but sixty days suspended. Childers was granted work release and also placed on probation for twenty-four months. The State dismissed the possession of a controlled substance charge and the citation for the possession of drug paraphernalia. On appeal, Childers argues the court abused its discretion in sentencing her to pay a fine and serve a jail sentence.

## ***II. Scope and Standards of Review.***

Our review is for correction of errors at law. Iowa R. App. P. 6.4; *State v. Formaro*, 638 N.W.2d 720, 724 (Iowa 2002). “[T]he 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 inappropriate matters.” *Formaro*, 638 N.W.2d at 724. Because the challenged sentence does not fall outside statutory limits, we review the court’s sentencing decision for an abuse of discretion. *State v. Cooley*, 587 N.W.2d 752, 754 (Iowa 1998). “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.” *Formaro*, 638 N.W.2d at 724 (citing Iowa Code § 901.5). 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).

### ***III. Merits.***

On appeal Childers contends the trial court did not address any of the factors relevant in mitigation of punishment. Specifically, she says she “has additional burdens in that she was responsible and is responsible for care and maintenance of her two children.” She argues she could save the expense of babysitting fees if she was permitted to serve her sentence by in-house detention. She also argues she could save the fees payable to the jailer for the time she is incarcerated and would be able, under the work permit provision of her sentence, to have income, which she could apply to her fine. Finally, she suggests that if she completed a sentence as she requested, she could be in a position to again get a valid driver’s license and avoid future violations for driving while barred.

In exercising its discretion, the sentencing court should weigh and consider all pertinent matters, including the nature of the offense, the attending circumstances, the defendant’s age, character and propensities, and chances for reform. *State v. August*, 589 N.W.2d 740, 744 (Iowa 1999) (quoting *State v. Hildebrand*, 280 N.W.2d 393, 396 (Iowa 1979)). In determining a proper sentence the courts owe a duty to the public as much as to the defendant, and the punishment should fit both the crime and the individual. *Id.* A court’s exercise of sentencing discretion is demonstrated by its statement on the record of reasons for selecting a particular sentence. See, e.g., Iowa R. Crim. P. 2.23(3)(d) (requiring the court to state on the record its reasons for selecting a particular sentence); *State v. Loyd*, 530 N.W.2d 708, 714 (Iowa 1995) (finding no

abuse of sentencing discretion, based on the district court's statement of factors considered in reaching its sentencing decision).

In this case the trial court took into consideration positive factors "including gainful employment and, of course, family support, including children that she supports." The court also took into consideration negative factors including:

her criminal history as outlined by the State and a prior conviction for driving while barred, wherein she served forty-five days, some prior convictions for driving while revoked and driving while suspended, and deferred judgments for child endangerment and operating while intoxicated.

The court then concluded "based upon your criminal history, it's clear to the court that you haven't learned yet to quit driving while your privilege to do so is either suspended or revoked or barred, so a jail sentence is appropriate." In rejecting the suggestion for in-home detention, the court said,

I am familiar with that program in Scott County, but given the fact that you've previously served a jail sentence for driving while barred and have committed this offense again—well, the offense date is approximately two years later, almost three—the court does not believe a more lenient sanction such as in-home detention is appropriate under the circumstance.

#### ***IV. Conclusion.***

The district court considered relevant sentencing factors and clearly stated valid reasons for the sentence it imposed. We find no abuse in its exercise of sentencing discretion and affirm its sentence.

**AFFIRMED.**