

IN THE UTAH COURT OF APPEALS

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State of Utah,)	MEMORANDUM DECISION	
)	(Not For Official Publication)	
Plaintiff and Appellee,)		
)	Case No. 20060647-CA	
v.)		
)	F I L E D	
Luis Ramon Depaz,)	(February 1, 2007)	
)		
Defendant and Appellant.)	<table border="1"><tr><td>2007 UT App 30</td></tr></table>	2007 UT App 30
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Third District, West Jordan Department, 051400645
The Honorable Stephen L. Roth

Attorneys: Stephen D. Spencer, Murray, for Appellant
Mark L. Shurtleff and Jeanne B. Inouye, Salt Lake
City, for Appellee

Before Judges Greenwood, Billings, and Orme.

PER CURIAM:

Luis Ramon Depaz appeals his sentence after pleading guilty to sexual battery, a class A misdemeanor. Depaz was sentenced to the statutory maximum of 365 days in jail. See Utah Code Ann. § 76-3-204(1) (2003). He asserts he should have been placed on probation.

Trial courts have wide latitude and discretion in sentencing. See State v. Bluff, 2002 UT 66, ¶66, 52 P.3d 1210. A trial court's sentencing decision will be reversed only if it is an abuse of discretion. See id. "[A] trial court abuses its discretion when it fails to consider all legally relevant factors, or if the sentence imposed exceeds the limits prescribed by law." Id. Because sentencing reflects the personal judgment of the trial court, a sentence imposed by a trial court will be overturned only when "it is inherently unfair or clearly excessive." Id. (quoting State v. Helms, 2002 UT 12, ¶14, 40 P.3d 626). Furthermore, it is well settled that a defendant is not entitled to probation, but it is within the trial court's discretion to permit probation. See State v. Rhodes, 818 P.2d 1048, 1051 (Utah Ct. App. 1991).

Depaz asserts that the trial court failed to consider all legally relevant factors because it did not consider Depaz's lack of criminal history. He also asserts that the court erred in departing from sentencing guidelines. Contrary to Depaz's first assertion, the trial court expressly considered his lack of criminal history when imposing sentence. The trial court determined that, even given Depaz's clean record, the maximum term was warranted based on the predatory nature of the crime and the vulnerability of the victim. Thus, the trial court considered all legally relevant factors in determining Depaz's sentence.

Additionally, sentencing guidelines have no force or effect of law. See Preece v. House, 886 P.2d 508, 511 (Utah 1994). Depaz concedes that the guidelines gave him no expectation of any particular sentence. Furthermore, he provides no reasoned argument to show that the trial court abused its discretion in departing from the guidelines. In sum, Depaz has not shown that the trial court abused its discretion in sentencing him to the statutory maximum.

Accordingly, Depaz's sentence is affirmed.

Pamela T. Greenwood,
Associate Presiding Judge

Judith M. Billings, Judge

Gregory K. Orme, Judge