

**Filed 10/25/12 by Clerk of Supreme Court
IN THE SUPREME COURT
STATE OF NORTH DAKOTA**

2012 ND 230

State of North Dakota,

Plaintiff and Appellee

v.

David C. Jirinzu,

Defendant and Appellant

No. 20120247

Appeal from the District Court of Burleigh County, South Central Judicial District, the Honorable Gail H. Hagerty, Judge.

AFFIRMED.

Per Curiam.

Justin Jon Schwarz (on brief), Assistant State's Attorney, Burleigh County Courthouse, 514 East Thayer Avenue, Bismarck, ND 58501-4413, for plaintiff and appellee.

Russell John Myhre (on brief), 341 Central Avenue North, Suite 3, P.O. Box 475, Valley City, ND 58072, for defendant and appellant.

State v. Jirinzu

No. 20120247

Per Curiam.

[¶1] David C. Jirinzu appeals a district court judgment revoking his probation and sentencing him to eighteen months of imprisonment. Jirinzu argues the district court erred by considering only one aggravating factor under N.D.C.C. § 12.1-32-04. We affirm under N.D.R.App.P. 35.1(a)(4) and 35.1(a)(7). State v. Steinbach, 1998 ND 18, ¶ 24, 575 N.W.2d 193 (statutory factors, although entitled to consideration in this appeal from the revocation, are neither exclusive nor controlling of a district court's sentencing discretion).

[¶2] Gerald W. VandeWalle, C.J.
Daniel J. Crothers
Mary Muehlen Maring
Carol Ronning Kapsner
Benny A. Graff, S.J.

[¶3] The Honorable Benny A. Graff, S.J., sitting in place of Sandstrom, J., disqualified.