

12-7-2010

State v. Mendoza Augmentation Record Dckt. 36865

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In the Supreme Court of the State of Idaho

LAW CLERK

STATE OF IDAHO,
Plaintiff-Respondent,
v.
JUDY ANN MENDOZA,
Defendant-Appellant.

)
)
) ORDER GRANTING MOTION TO
) AUGMENT THE RECORD
)
) Supreme Court Docket No. 36865-2009
) Twin Falls County Docket No.
) 2009-272
)

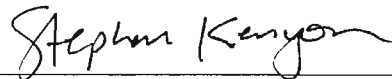
A MOTION TO AUGMENT THE RECORD AND STATEMENT IN SUPPORT THEREOF was filed by counsel for Appellant on November 23, 2010. Therefore, good cause appearing,

IT HEREBY IS ORDERED that Appellant's MOTION TO AUGMENT THE RECORD be, and hereby is, GRANTED and the augmentation record shall include the document listed below, file stamped copies of which accompanied this Motion:

1. Order Denying Defendant's I.C.R. 35 Motion Without a Hearing, file-stamped January 29, 2010.

DATED this 7th day of December 2010.

For the Supreme Court



Stephen W. Kenyon, Clerk

cc: Counsel of Record

AUGMENTATION RECORD

ORDER GRANTING MOTION TO AUGMENT THE RECORD – Docket No. 36865-2009

In the Supreme Court of the State of Idaho

STATE OF IDAHO,)
)
Plaintiff-Respondent,)
)
v.)
)
JUDY ANN MENDOZA,)
)
Defendant-Appellant.)

ORDER GRANTING MOTION TO
AUGMENT THE RECORD

Supreme Court Docket No. 36865-2009
Twin Falls County Docket No.
2009-272

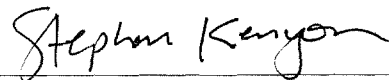
A MOTION TO AUGMENT THE RECORD AND STATEMENT IN SUPPORT THEREOF was filed by counsel for Appellant on November 23, 2010. Therefore, good cause appearing,

IT HEREBY IS ORDERED that Appellant's MOTION TO AUGMENT THE RECORD be, and hereby is, GRANTED and the augmentation record shall include the document listed below, file stamped copies of which accompanied this Motion:

1. Order Denying Defendant's I.C.R. 35 Motion Without a Hearing, file-stamped January 29, 2010.

DATED this 7th day of December 2010.

For the Supreme Court



Stephen W. Kenyon, Clerk

cc: Counsel of Record

is unreasonable, and thus a clear abuse of discretion. *State v. Brown*, 121 Idaho 385, 393 (1992). When the Defendant does not identify what evidence he might have produced at a hearing that he was unable to produce through affidavits, the district court does not abuse its discretion in refusing to hold a hearing on his Rule 35 motion. *State v. Ramirez*, 122 Idaho 830 (Ct.App.1992).

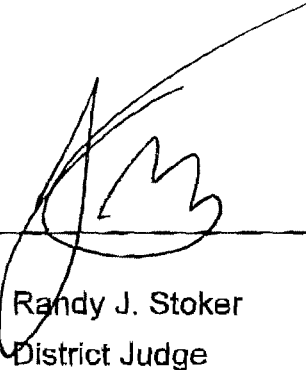
At the Defendant's request, the Court appointed the Twin Falls County Public Defender to represent the Defendant regarding of her I.C.R. 35 motion. No additional information has been submitted to the Court following appointment of counsel. Specifically, no affidavits have been filed in support of the Defendant's motion. Nor has the Defendant made any showing as to why a hearing in this case is warranted.

In her motion, the Defendant asserts the presentence investigation report (PSI) did not acknowledge pertinent facts of her life and that information given to the presentence investigator was "twisted and the facts were replaced with [the presentence investigator's] words not [the Defendant's]". The Defendant did not raise these issues at sentencing. She was given an opportunity to correct the PSI and present mitigation evidence at the sentencing hearing. Nevertheless, she still does not present to the Court any material information with her motion which would alter the Court's analysis of the reasons for imposing the sentence that it did. The Court makes no finding that the presentence investigation was in error.

After carefully considering all of the information presented in support of Defendant's motion, the Court finds insufficient reason to grant leniency and alter the sentence previously imposed. Even after considering the assertions contained in the Defendant's motion, the Court finds the sentence received by the Defendant was not unreasonable.

Based on the review by the Court, IT IS HEREBY ORDERED that the Defendant's Motion for Correction or Reduction of the Sentence pursuant to I.C.R. 35 is DENIED WITHOUT HEARING.

Dated this 29 day of January 2010.



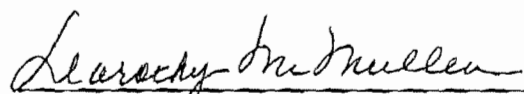
Randy J. Stoker
District Judge

CERTIFICATE OF SERVICE

I hereby certify that on the 1 day of ^{Feb.} ~~January~~ 2010, I caused to be served a true and correct copy of the foregoing, by the method indicated below, and addressed to the following:

Grant Loeb	() U.S. Mail
Twin Falls County Prosecuting Attorney	() Hand delivered
P.O. Box 126	() Faxed
Twin Falls, ID 83303	(<input checked="" type="checkbox"/>) Court Folder

Marilyn Paul	() U.S. Mail
Twin Falls County Public Defender	() Hand delivered
P.O. Box 126	() Faxed
Twin Falls, ID 83303	(<input checked="" type="checkbox"/>) Court Folder



 Dorothy McMullen
 Clerk