7-6-2012

State v. Pfeiffer Respondent's Brief Dckt. 39022

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	
	)	
Plaintiff-Respondent,	)	NO. 39022
	)	
vs.	)	
	)	
STEFAN JAMES PFEIFFER,	)	
	)	
Defendant-Appellant.	)	
	)	

BRIEF OF RESPONDENT

APPEAL FROM THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

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STATEMENT OF THE CASE

Nature Of The Case

Stefan James Pfeiffer appeals from the judgment entered upon his conditional guilty plea to trafficking in methamphetamine or amphetamine claiming the district court erred in denying his motion to suppress. Pfeiffer also claims error in the denial of his Rule 35 motion.

Statement Of Facts And Course Of Proceedings

Officer Jake Durbin received a call from dispatch about an individual who was making "irrational statements, talking about having a gun and . . . possibly needing to shoot somebody, and that he was in fear of [sic] his life." (Tr., p.14, L.25 – p.15, L.6.) Officer Durbin made contact with the individual outside of the Vista Inn and identified him as Thomas Massey. (Tr., p.14, Ls.11-17; p.15, Ls.7-12.) Massey was "[v]ery disheveled," speaking irrationally and behaving erratically. (Tr., p.15, L.21 – p.16, L.2.) Massey said "people had put a hit out on his life" because he had sex with a "white woman," and he was "very nervous." (Tr., p.16, Ls.2-3; p.38, Ls.9-12.) Massey claimed that "if anybody came close to him that he thought was trying to kill them, he was gonna shoot them or run them over with his car." (Tr., p.18, Ls.16-18.) Massey also referred to an individual he called "Slim" and indicated that Slim was in the hotel room and he "thought that Slim may be trying to kill him as well." (Tr., p.18, Ls.3-22; p.38, Ls.12-14; p.62, Ls.6-15.) Based on Massey's statements, Officer Durbin became concerned about Slim and advised Corporal Russell Winter, one of the other officers on scene, that the hotel room should be checked to "make sure that whoever's in

there is not dead." (Tr., p.18, L.23 – p.19, L.1; p.22, Ls.2-9.) Officer Durbin testified that he "felt obligated" to check on Slim because if he was, in fact, "injured or hurt," it was going to "fall back on [law enforcement] that [they] didn't do anything." (Tr., p.32, Ls.13-18.)

Corporal Winter agreed that the officers' community caretaking function required them to make sure nobody was injured inside the hotel room. (Tr., p.39, Ls.7-9.) Corporal Winter therefore went to the room registered to Massey and "pounded on the door." (Tr., p.40, Ls.6-14.) Corporal Winter "pounded long enough and hard enough that [he] had four or five separate rooms -- people in rooms on the same floor open their doors to find out what was going on," but nobody answered the door to Massey's room. (Tr., p.40, Ls.15-18.) As soon as back-up arrived, Corporal Winter pounded on the door again, and again there was no answer. (Tr., p.41, Ls.11-15.) Corporal Winter gained entry into the room using a key provided by the motel manager. (Tr., p.41, Ls.15-17.)

Inside the motel room, Officer Durbin saw a man "laying on his right side, facing away from" the officers. (Tr., p.42, Ls.17-18; p.65, Ls.23-25.) The man did not respond to the officers' commands. (Tr., p.42, Ls.20-21.) Another officer "cleared the bathroom for officer safety" and, after "four or five calls," the man on the bed "finally started to move and . . . wake up." (Tr., p.42, L.23 – p.43, L.1.) At that point, the officers could not tell whether the man was injured because they could not see his face, chest, or hands. (Tr., p.43, L.21 – p.44, L.1.) Once the man became aroused enough to speak with the officers, they identified him as Pfeiffer. (Tr., p.44, Ls.2-11.)

While the officers were in the motel room trying to arouse Pfeiffer, they saw "a clear, plastic baggie with a white, powdery substance" on the bed at the small of Pfeiffer's back. (Tr., p.43, Ls.13-15.) A detective subsequently entered the room with Massey's consent, collected the baggie, which tested positive for methamphetamine, and "other items of paraphernalia and contraband." (Tr., p.70, L.10 – p.71, L.18.) A search of Pfeiffer, who also had an outstanding warrant for his arrest, uncovered $895.00 in cash. (Tr., p.71, L.19 – p.72, L.8.)

The state charged Pfeiffer with trafficking in methamphetamine or amphetamine. (R., pp.6-7, 39-40.) Pfeiffer filed a motion to suppress contending the officers "illegally entered the hotel room" and did not advise him of his Miranda rights prior to "interrogat[ing]" him. (R., pp.57-58.) The district court denied Pfeiffer's motion concluding, under the totality of the circumstances, the "police officers' actions in this case were reasonable and constitutional."[1] (R., p.96; Tr. pp.98-120.) Pfeiffer subsequently entered a conditional guilty plea to the charged offense and the court imposed a unified 12-year sentence with three years fixed. (R., pp.111-12.) Pfeiffer filed a Rule 35 motion, which the court denied. (R., pp.125-26.) Pfeiffer timely appealed. (R., pp.115-17.)

[1] The district court did not rule on the Miranda component of Pfeiffer's suppression motion because Pfeiffer did not identify what statements he wanted suppressed and no evidence was presented on that issue. (Tr., p.120, Ls.8-20.)

ISSUES

Pfeiffer states the issue on appeal as:

A. Did the District Court err by denying the Appellant's Motion to Suppress Evidence?

B. Did the district court abuse its discretion when it denied Mr. Pfeiffer's Idaho Criminal Rule 35 (Rule 35) Motion For A Reduction Of Sentence?

(Appellant's Brief, p.3 (capitalization original).)

The state rephrases the issue on appeal as:

1. Has Pfeiffer failed to show error in the district court's denial of his motion to suppress?

2. Has Pfeiffer failed to establish an abuse of discretion in the denial of his Rule 35 motion?

ARGUMENT

I.
Pfeiffer Has Failed To Demonstrate The District Court Erred In Denying His Motion To Suppress Evidence

A. Introduction

Pfeiffer asserts the district court erred in denying his motion to suppress, contending "[n]o basis for the community caretaking function existed." (Appellant's Brief, p.5.) Pfeiffer's claim fails. Application of the law to the facts shows the district court correctly concluded that law enforcement's actions in this case were constitutionally reasonable for purposes of the Fourth Amendment.

B. Standard Of Review

The standard of review of a suppression motion is bifurcated. When a decision on a motion to suppress is challenged, the appellate court accepts the trial court's findings of fact that are supported by substantial evidence, but freely reviews the application of constitutional principles to those facts. State v. Klingler, 143 Idaho 494, 496, 148 P.3d 1240, 1242 (2006).

C. Pfeiffer Has Failed To Demonstrate Error In The Denial Of His Suppression Motion

Pfeiffer asserts the district court erred in denying his suppression motion because, he argues, "the officer conceded she had no evidence that Mr. Pfeiffer was in need of assistance" and there was no "information . . . available to suggest a need to exercise her community caretaking function" "other than the

fact [the officer] knocked on the door." (Appellant's Brief, p.5.) Pfeiffer's claim is contradicted by the record and is contrary to the district court's factual findings.

'[B]ecause the ultimate touchstone of the Fourth Amendment is 'reasonableness,' the warrant requirement is subject to certain exceptions." Brigham City, Utah v. Stuart, 547 U.S. 398, 403 (2006) (citations omitted). Thus, for example, a warrant is not required where "the exigencies of the situation make the needs of law enforcement so compelling that the warrantless search is objectively reasonable under the Fourth Amendment." Id. (citations and quotations omitted). "The reasonableness standard imposed by the Fourth Amendment requires that the nature of the intrusion upon the individual's privacy interest be balanced against the public need and governmental interest promoted by the action taken." State v. Barrett, 138 Idaho 290, 293, 62 P.3d 214, 217 (2003) (citations omitted). Reasonableness is assessed based on the totality of the circumstances. Id. Courts have repeatedly recognized that members of law enforcement do not violate the Fourth Amendment when they take action consistent with their community caretaking function. Id.

The community caretaking function involves the duty of the police to help individuals that officers believe are in need of immediate assistance. State v. Wixom, 130 Idaho 752, 754, 947 P.2d 1000, 1002 (1997) (citing In re Clayton, 113 Idaho 817, 748 P.2d 401(1988)). "In analyzing community caretaking function cases, Idaho courts have adopted a totality of the circumstances test." Id. "The constitutional standard in community caretaking function cases is whether intrusive action of police was reasonable in view of all surrounding

circumstances." Wixom, 130 Idaho at 754, 947 P.2d at 1002 (quoting State v. Waldie, 126 Idaho 864, 867, 893 P.2d 811, 814 (Ct. App. 1995)) (brackets omitted). The emergency aid doctrine is encompassed within the community caretaking function. Barrett, 138 Idaho at 295, 62 P.3d at 219 (noting that Idaho "treats the emergency aid doctrine within the community care-taking function exception"). The emergency aid doctrine allows law enforcement to make a warrantless entry into a place protected by the Fourth Amendment when there is a "need to assist persons who are seriously injured or threatened with such injury." Brigham City, 547 U.S. at 403 (citations omitted). "An action is 'reasonable' under the Fourth Amendment, regardless of the individual officer's state of mind, as long as the circumstances, viewed *objectively*, justify the action." Id. at 404 (quoting Scott v. United States, 436 U.S. 128 (1978) (emphasis original, brackets omitted). "The officer's subjective motive is irrelevant." Brigham City at 404 (citation omitted).

A review of the totality of the circumstances in this case supports the district court's conclusion that the officers' conduct was reasonable. Massey, who was acting paranoid and behaving irrationally, expressed a belief that people, including an individual in his motel room who turned out to be Pfeiffer, were intent on harming him. Massey indicated he would respond to any such threat by shooting the person or running him over with his car. It was objectively reasonable for the officers to conclude, based on Massey's threats and the information that there was someone in Massey's motel room that Massey included among those "out to get him," that the person in the motel room was in

need of assistance either because he was "seriously injured" or, if nothing else, to warn him of the threat Massey presented. Brigham City, 547 U.S. at 406 ("The role of a peace officer includes preventing violence and restoring order, not simply rendering first aid to casualties; an officer is not like a boxing (or hockey) referee, poised to stop a bout only if it becomes too one-sided."). The officers' concern for Pfeiffer's safety was only enhanced when he would not respond when they pounded on the door. For all the officers knew, Pfeiffer may have already been seriously or fatally wounded. "[H]indsight determination that there was in fact no emergency" does not establish the officers' actions were objectively unreasonable. Michigan v. Fisher, 130 S.Ct. 546, 549 (2009) (per curiam).

Also relevant to the reasonableness inquiry is the manner of the officers' entry in this case. Brigham City is instructive on this point. In Brigham City, officers entered a home after seeing a "melee" inside that involved "four adults [who] were attempting, with some difficulty to restrain a juvenile." 547 U.S. at 401. "The juvenile eventually broke free, swung a fist and struck one of the adults in the face," drawing blood. Id. (quotations omitted). "The other adults continued to try to restrain the juvenile, pressing him against a refrigerator with such force that the refrigerator began moving across the floor." Id. It was only then that an officer "opened the screen door and announced the officers' presence." Id. The Court concluded the officers behaved reasonably in entering the residence, noting that the officer "opened the screen door and yelled in police" and only entered, to announce the officers' presence "[w]hen nobody

heard him." Brigham City, 547 U.S. at 406. The Court reasoned that the officer's conduct "was probably the only option that had even a chance of rising above the din," and was constitutionally reasonable under the circumstances. Id. at 406-07. The Court further noted "it would serve no purpose to require them to stand dumbly at the door awaiting a response while those within brawled on, oblivious to their presence."

Pfeiffer argues, "No observations were made other than the fact [the officer] knocked on the door, and no other information was available to suggest a need to exercise [the] community caretaking function." (Appellant's Brief, p.5.) This argument ignores the totality of the circumstances test applicable to the Fourth Amendment inquiry. The need to exercise the community caretaking arose as a result of the perceived threat Massey represented coupled with Pfeiffer's unresponsiveness when the officers attempted to ascertain his well-being. The officers' actions in response to the information available to them was objectively reasonable. Pfeiffer's reliance on State v. Schmidt, 137 Idaho 301, 47 P.3d 1271(Ct. App. 2002), in support of a contrary conclusion is unpersuasive. (Appellant's Brief, pp.4-5.)

In Schmidt, a deputy on patrol noticed a vehicle "parked twenty to thirty feet off on the right side of the road in an unimproved pullout." 137 Idaho at 302, 47 P.3d at 1272. "Believing that the vehicle had perhaps run off the road or had an accident, [the deputy] stopped to investigate," parking "directly in front of the other vehicle," blocking it. Id. The deputy's overhead lights were also activated. Id. As the deputy approached the vehicle, he noticed the driver "trying to hide

something either underneath the dashboard or between her legs." Id. The deputy approached the vehicle to ask if everything was okay and, when the driver rolled down the window, the deputy "detected an odor of what he believed to be marijuana coming from the vehicle." Id. Upon further investigation and discovery of marijuana, the deputy arrested Schmidt, who was a passenger in the vehicle, for possession of marijuana. Id.

Schmidt argued her "initial detention was constitutionally unreasonable." Schmidt, 137 Idaho at 303, 47 P.3d at 1273. The Court of Appeals agreed, rejecting the state's assertion that the officer's actions were appropriate under the community caretaking function. Id. at 303-04, 47 P.3d at 1273-74. The Court reasoned that the deputy's "belief that the occupants of the car were in need of immediate assistance" was "not reasonable in view of all the surrounding circumstances." Id. at 304, 47 P.3d at 1274. Specifically, the Court noted:

> [The deputy] did not receive any notice from dispatch that there were any emergencies involving vehicles in the area nor did he have any reports from any other source that this particular vehicle was stranded or abandoned. There was no debris or skid marks on the roadway, and the roadway was not slick with ice, snow or rain so as to create the possibility of a slide-off. The exterior appearance of the vehicle did not indicate that it had been involved in an accident. There was no visual evidence that the vehicle left the road in a reckless or inattentive manner. Further, the vehicle was parked in a lawful and safe manner at least twenty feet from the roadway in an area described by [the deputy] as a "pull out." It is undisputed that it was off the roadway and not a safety hazard. Moreover, [the deputy] did not observe anything about the vehicle's occupants that led him to believe they were in need of assistance. The only information that [the deputy] possessed was that the vehicle was parked with its lights off, facing oncoming traffic in a place he had never seen a car parked before.

Schmidt, 137 Idaho at 304, 47 P.3d at 1274.

Pfeiffer's reliance on Schmidt is predicated on the erroneous comparison that "[a]s in [that] case, here the officer conceded she had no evidence that Mr. Pfeiffer was in need of assistance." (Appellant's Brief, p.5.) It appears this assertion is based on testimony from the preliminary hearing. (See Appellant's Brief, p.2.) As an initial matter, the state notes that although the court indicated it had read "major portions" of the preliminary hearing transcript (Tr., p.7, Ls.20-21), and defense counsel used the prosecutor's copy of the transcript at one point during the suppression hearing to cross-examine a witness (Tr., p.74, L.14 – p.78, L.8), that transcript was not admitted as an exhibit at the suppression hearing (see generally Tr.). Pfeiffer's reliance on that transcript in support of his claim is, therefore, improper. Regardless, Officer Parker's acknowledgement that law enforcement "didn't receive any *calls* that somebody was hurt inside the hotel room" (Tr., p.78, Ls.11-14 (emphasis added)), does not diminish the information law enforcement obtained once they were on scene, which warranted their entry into Massey's motel room.

This case is factually analogous to Barrett, 138 Idaho 290, 62 P.3d 214. In Barrett, law enforcement responded to a report of a man who was collapsed on his front porch and unresponsive. Id. at 292, 62 P.3d at 216. A neighbor advised the officer that Barrett lived with his wife and two children but that he had not seen them that day. Id. Because Barrett did not respond to questions about whether there was anyone else in the house, the officers on scene "proceeded to Barrett's house and identified themselves loudly several times, asking any persons inside to come to the front door." Id. "[G]etting no response and hearing

nothing from inside," and concerned that Barrett's wife and children could be inside and in need of medical assistance, the officers entered the residence. Id. Once inside, the officers did not find any other occupants, but they did find paraphernalia and heroin in plain view. Id.

On appeal, Barrett challenged the denial of his suppression motion. Barrett, 138 Idaho at 293, 62 P.3d at 217. The Court of Appeals upheld the district court's order denying Barrett's motion, concluding:

> Under the totality of the facts and circumstances as known to the police at the time that they entered Barrett's house, and reasonable inferences drawn thereupon, we conclude that there existed a compelling need for the police to enter. The state has satisfied its burden to show that the risk of danger to persons inside the dwelling, as then reasonably perceived by police, constituted an exigency justifying that warrantless entry. Here, the state's claim of exigency is not a mere pretext for an unlawful entry and search, but the police officers legitimately believed, particularly in view of their inability to discern the cause of the medical condition affecting Barrett, that the life of any occupants of Barrett's house may very well have been at stake. Because the police officers were still in the process of searching downstairs for persons in need of assistance, the exigent circumstances had not ceased to exist when Hosford observed the drug evidence in plain view in the kitchen.

Barrett, 138 Idaho at 294-95, 62 P.3d at 218-19.

As in Barrett, there was a "compelling need for the police to enter" Massey's hotel room. Based on Massey's statements, the officers had a legitimate basis for concern that the individual in Massey's motel room could be in need of assistance. Because the police officers were in the process of ascertaining Pfeiffer's well-being when they saw the methamphetamine in plain view on the bed next to Pfeiffer, there was no Fourth Amendment violation requiring suppression. Pfeiffer has failed to establish otherwise.

Pfeiffer has failed to demonstrate law enforcement acted unreasonably in violation of the Fourth Amendment by entering the motel room to ensure the safety of whoever was inside that room. Pfeiffer has therefore failed to demonstrate error in the district court's denial of his motion to suppress.

II.
Pfeiffer Has Failed To Establish The District Court Abused Its Discretion In Denying His Rule 35 Motion

A. Introduction

The district court imposed a unified 12-year sentence with three years fixed following Pfeiffer's conditional guilty plea to trafficking in methamphetamine or amphetamine. (R., pp.111-12.) Pfeiffer filed a Rule 35 motion, which the court denied. (R., pp.125-26.) Pfeiffer argues the district court erred in denying his motion "because the sentence was excessive as originally imposed." (Appellant's Brief, p.6.)

B. Standard Of Review

"Sentencing decisions are reviewed for an abuse of discretion." State v. Moore, 131 Idaho 814, 823, 965 P.2d 174, 183 (1998) (citing State v. Wersland, 125 Idaho 499, 873 P.2d 144 (1994)).

C. Pfeiffer Has Failed To Show Error In The Denial Of His Rule 35 Motion

If a sentence is within applicable statutory limits, a motion for reduction of sentence under Rule 35 is a plea for leniency, and this Court reviews the denial of the motion for an abuse of discretion. State v. Huffman, 144 Idaho, 201, 203, 159 P.3d 838, 840 (2007). Pfeiffer acknowledges he failed to provide any "new

information or documentation in support of his Rule 35 motion," thus, his only contention is that the district court erred in denying the motion because, he argues, his sentence "was excessive as originally imposed" in light of his age and his lack of any prior felonies.[2] (Appellant's Brief, p.6.) The record supports the sentence imposed.

A court's decision not to reduce a sentence is reviewed for an abuse of discretion subject to the well-established standards governing whether a sentence is excessive. State v. Hanington, 148 Idaho 26, 28, 218 P.3d 5, 7 (Ct. App. 2009). Those standards require an appellant to "establish that, under any reasonable view of the facts, the sentence was excessive considering the objectives of criminal punishment." State v. Stover, 140 Idaho 927, 933, 104 P.3d 969, 975 (2005). Those objectives are: "(1) protection of society; (2) deterrence of the individual and the public generally; (3) the possibility of rehabilitation; and (4) punishment or retribution for wrong doing." State v. Wolfe, 99 Idaho 382, 384, 582, P.2d 728, 730 (1978). Although the appellate court considers the entire length of the sentence, it is presumed the fixed portion of the sentence will be the defendant's probable term of confinement. State v. Justice, 152 Idaho 48, ---, 266 P.3d 1153, 1159 (Ct. App. 2011) (citation omitted). .

In imposing sentence, the district court expressly considered the objectives of sentencing but was constrained by the mandatory minimum three-

[2] Because Pfeiffer's notice of appeal is timely from the judgment of conviction, and because his Rule 35 motion fails to provide any new or additional information, the motion is ultimately irrelevant to the Court's sentencing review. Nevertheless, because Pfeiffer has framed the issue as error in the denial of his Rule 35 motion, the state has done so as well.

year sentence required by the legislature for trafficking in methamphetamine and concluded that the 12-year sentence with three years fixed was necessary to achieve the objectives of sentencing. (Tr., p.190, L.1 – p.191, L.25.) The district court also specifically considered Pfeiffer's age but noted that "chronologically, [Pfeiffer has] had opportunities to mature" but he has "chosen not to take advantage of [those] because of [his] drug use." (Tr., p.188, Ls.18-20.) The court also acknowledged Pfeiffer's lack of a felony record, but, at that same time, noted Pfeiffer had "three active warrants for his arrest when he moved here in 2009." (Tr., p.190, Ls.8-12.) Further, while Pfeiffer had not yet accumulated a felony record by age 22, he had several misdemeanor convictions including convictions for obstructing law enforcement, making false or misleading statements, assault, minor in possession, possession of marijuana, reckless driving (amended from driving under the influence), and petit theft. (PSI, pp.4-5[3].)

In denying Pfeiffer's Rule 35 motion, the court correctly concluded the "sentence imposed was rational, thoughtful and appropriate based on the facts and the law." (R., p.126.) Pfeiffer has failed to establish otherwise.

[3] Citations to the PSI are to documents contained in the electronic file designated PfeifferPSI.pdf.

CONCLUSION

Pfeiffer has failed to demonstrate that the district court erred in denying his motion to suppress or in denying his Rule 35 motion. The state requests that this Court affirm.

DATED this 6th day of July, 2012.

JESSICA M. LORELLO
Deputy Attorney General

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 6th day of July 2012, I caused two true and correct copies of the foregoing BRIEF OF RESPONDENT to be placed in the United States mail, postage prepaid, addressed to:

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JML/pm