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Gillard v. State Respondent's Brief Dckt. 39814

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IN THE SUPREME COURT OF THE STATE OF IDAHO

ONEISA MAY GILLARD,)	
)	No. 39814
Petitioner-Appellant,)	
)	Ada Co. Case No.
vs.)	CV-2011-22028
)	
STATE OF IDAHO,)	
)	
Respondent.)	

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**

**HONORABLE DARLA S. WILLIAMSON
District Judge**

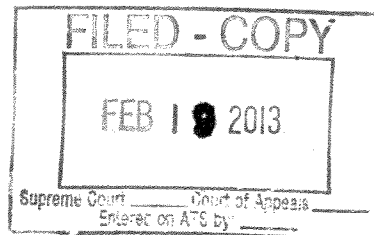
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STATEMENT OF THE CASE

Nature Of The Case

Oneisa May Gillard appeals from the district court's summary dismissal of her petition for post-conviction relief.

Statement Of The Facts And Course Of The Proceedings

Gillard pleaded guilty to grand theft. (R., pp.4-5, 23.) The district court sentenced her on April 14, 2011, to six years with one year fixed. (Tr., p.20, L.18 – p.21, L.15.) Gillard did not file an appeal. (R., p.5.)

On November 16, 2011, Gillard filed a *pro se* petition for post-conviction relief, claiming that her attorney was ineffective and that her sentence was excessive. (R., pp.4-10.) Finding no support for her claims, the district court notified Gillard of its intent to dismiss her post-conviction petition. (R., pp.23-27.) Gillard responded, through counsel, that she had raised a genuine issue of material fact regarding whether her guilty plea was knowing, intelligent, and voluntary. (R., pp.42-45.) The state replied to Gillard's response and moved the court for summary judgment on the allegation that Gillard's plea was not knowing, intelligent, and voluntary, arguing that it was not a genuine issue. (R., pp.47-51.)

The district court, finding that Gillard's response provided no additional information that she was entitled to relief, dismissed her petition for post-conviction relief. (R., pp.53-54, 65.) Gillard filed a timely notice of appeal. (R., pp.55-57.)

ISSUE

Gillard states the issue on appeal as:

Did the district court err by summarily dismissing Ms. Gillard's petition for post-conviction relief as there was a genuine issue of material fact as to whether Ms. Gillard knowingly, intelligently, and voluntarily entered her guilty plea?

(Appellant's brief, p.4.)

The state rephrases the issue as:

Has Gillard failed to show error in the district court's summary dismissal of her petition for post-conviction relief?

ARGUMENT

Gillard Has Failed To Show Error In The Summary Dismissal Of Her Petition For Post-Conviction Relief

A. Introduction

In her petition for post-conviction relief, Gillard claimed that her counsel was ineffective and her sentence excessive. (R., pp.4-10.) The district court, adhering to the procedures set forth in Idaho Code § 19-4906, summarily dismissed Gillard's petition for post-conviction relief because she failed to make a *prima facie* showing of ineffective assistance of counsel. (R., pp.53-54.) Gillard argues that the district court erred in summarily dismissing her petition for post-conviction relief, asserting that "[t]he evidence presented by Ms. Gillard raised a genuine issue of material fact as to whether or not she understood the consequences of pleading guilty." (Appellant's brief, pp.5-10.) Gillard's claim is not supported by the record and she has failed to show error in the district court's summary dismissal of her petition for post-conviction relief.

B. Standard Of Review

"On review of a dismissal of a post-conviction relief application without an evidentiary hearing, this Court will determine whether a genuine issue of fact exists based on the pleadings, depositions and admissions together with any affidavits on file" Workman v. State, 144 Idaho 518, 523, 164 P.3d 798, 803 (2007) (citing Gilpin-Grubb v. State, 138 Idaho 76, 80, 57 P.3d 787, 791 (2002)).

C. The District Court Correctly Dismissed Gillard's Post-Conviction Petition

Post-conviction proceedings are governed by the Uniform Post-Conviction Procedure Act. I.C. § 19-4901, *et seq.* A petition for post-conviction relief initiates a

new and independent civil proceeding in which the petitioner bears the burden of establishing that he is entitled to relief. Workman, 144 Idaho at 522, 164 P.3d at 802; State v. Bearshield, 104 Idaho 676, 678, 662 P.2d 548, 550 (1983). Generally, the Idaho Rules of Civil Procedure apply to petitions for post-conviction relief. Pizzuto v. State, 146 Idaho 720, 724, 202 P.3d 642, 646 (2008). However, unlike other civil complaints, in post-conviction cases the “application must contain much more than a short and plain statement of the claim that would suffice for a complaint under I.R.C.P. 8(a)(1).” Monahan v. State, 145 Idaho 872, 875, 187 P.3d 1247, 1250 (Ct. App. 2008) (quoting Goodwin v. State, 138 Idaho 269, 271, 61 P.3d 626, 628 (Ct. App. 2002)). Instead, the application must be supported by a statement that “specifically set[s] forth the grounds upon which the application is based.” Id. (citing I.C. § 19-4903). “The application must present or be accompanied by admissible evidence supporting its allegations, or the application will be subject to dismissal.” State v. Payne, 146 Idaho 548, 561, 199 P.3d 123, 136 (2008) (citing I.C. § 19-4903).

Idaho Code § 19-4906 authorizes summary dismissal of an application for post-conviction relief in response to a party’s motion or on the court’s own initiative. “To withstand summary dismissal, a post-conviction applicant must present evidence establishing a *prima facie* case as to each element of the claims upon which the applicant bears the burden of proof.” State v. Lovelace, 140 Idaho 53, 72, 90 P.3d 278, 297 (2003) (citing Pratt v. State, 134 Idaho 581, 583, 6 P.3d 831, 833 (2000)). Thus, a claim for post-conviction relief is subject to summary dismissal “if the applicant’s evidence raises no genuine issue of material fact” as to each element of the petitioner’s claims. Workman, 144 Idaho at 522, 164 P.3d at 802 (citing I.C. § 19-4906(b), (c));

Lovelace, 140 Idaho at 72, 90 P.3d at 297. While a court must accept a petitioner's un rebutted allegations as true, the court is not required to accept either the applicant's mere conclusory allegations, unsupported by admissible evidence, or the applicant's conclusions of law. Workman, 144 Idaho at 522, 164 P.3d at 802 (citing Ferrier v. State, 135 Idaho 797, 799, 25 P.3d 110, 112 (2001)). The trial court is not required to conduct an evidentiary hearing prior to dismissing the petition when the alleged facts, even if true, would not entitle the petitioner to relief. Id. (citing Stuart v. State, 118 Idaho 865, 869, 801 P.2d 1216, 1220 (1990)). "Allegations contained in the application are insufficient for the granting of relief when (1) they are clearly disproved by the record of the original proceedings, or (2) do not justify relief as a matter of law." Id.

Gillard's petition set forth two claims: That her counsel was ineffective and that her sentence was excessive. (R., p.5.) To support those claims, she alleged:

I was heavily sadated [sic] and did not know what I was doing. I wanted mental health court and my lawyer did not fight for it. I am now concisely aware of what Im [sic] doing. Im [sic] on the proper medication. I needed a competency test and a hearing.

(R., p.6 (punctuation original).) In an accompanying affidavit, she also asserted, in relation to her underlying crime:

I was not on my proper medication and I was under the influence of drugs. I was also with a so called friend. We were walking and seen [sic] a vehicle running I said Sam it's cold. He said lets [sic] take the vehicle. I said whose [sic] driving he said you. We drove away got pulled over in the college area. The owner got his vehicle back.

(R., p.9 (punctuation original).) For relief, Gillard requested "less time or a chance to be in mental health court." (R., p.6.)

Gillard's claim that her sentence is excessive is not viable under the Uniform Post-Conviction Procedure Act, see I.C. § 19-4901, and the district court correctly dismissed it. Her claim of ineffective assistance of counsel, however, may be brought under the Uniform Post-Conviction Procedure Act. Murray v. State, 121 Idaho 918, 924-25, 828 P.2d 1323, 1329-30 (Ct. App. 1992).

Where the petitioner alleges entitlement to relief based upon ineffective assistance of counsel, she must show that her attorney's performance was objectively deficient and that she was prejudiced by that deficiency. Strickland v. Washington, 466 U.S. 668, 687-88 (1984); Aragon v. State, 114 Idaho 758, 760-61, 760 P.2d 1174, 1176-77 (1988). To show deficient performance, the petitioner must "overcome the strong presumption that counsel's performance was adequate by demonstrating 'that counsel's representation did not meet objective standards of competence.'" Vick v. State, 131 Idaho 121, 124, 952 P.2d 1257, 1260 (Ct. App. 1998) (quoting Roman v. State, 125 Idaho 644, 648-49, 873 P.2d 898, 902-03 (Ct. App. 1994). Appellate courts "will not second guess counsel without evidence of inadequate preparation, ignorance of the relevant law, or other shortcomings capable of objective evaluation." State v. Chapman, 120 Idaho 466, 469-470, 816 P.2d 1023, 1026-27 (Ct. App. 1991) (citing State v. Larkin, 102 Idaho 231, 234, 628 P.2d 1065, 1068 (1981); State v. Elisondo, 97 Idaho 425, 426, 546 P.2d 380, 381 (1976)). When the alleged deficiency involves counsel's advice in relation to a guilty plea, "in order to satisfy the 'prejudice' requirement, the defendant must show that there is a reasonable probability that, but for counsel's errors, he would not have pleaded guilty and would have insisted on going to trial." Hill v. Lockhart, 474 U.S. 52, 58 (1985) (footnote and citations omitted). "Moreover, to obtain relief on this

type of claim, a petitioner must convince the court that a decision to reject the plea bargain would have been rational under the circumstances.” Padilla v. Kentucky, 559 U.S. ___, 130 S.Ct. 1473, 1485 (2010) (citing Roe v. Flores-Ortega, 528 U.S. 470 (2000)). Application of these relevant legal standards shows that Gillard failed to present a *prima facie* case that her attorney was ineffective.

The district court, after articulating the relevant legal standards, carefully addressed each of Gillard’s possible claims in its “Notice of Intent to Dismiss Post Conviction Petition,” and correctly explained why each failed to establish ineffective assistance of counsel. (R., pp.23-27.) Gillard has failed to show error in the district court’s application of the law to the facts alleged in her petition for post-conviction relief. The state adopts as part of its argument on appeal the district court’s analysis as set forth at pages 3-4 of its well-reasoned notice of intent to dismiss, which is attached as “Appendix A.”

Addressing Gillard’s ineffective assistance of counsel claim, the district court recognized some ambiguity in her statement, “I was heavily sadated [sic] and did not know what I was doing.” (R., pp.25-26.) The district court noted that, in the context of the whole petition, it appeared Gillard was “alleging that at the time she committed the offense she was heavily sedated and that this condition somehow excuses her from committing the crime.” (R., p.26.) Because as a matter of law intoxication is not a defense, that claim was unsupportable. (Id. (citing I.C. § 18-116).) The district court also recognized that the statement could be read as a claim that Gillard was heavily sedated at the time of her plea and sentencing. (Id.) However, because Gillard had stated on her guilty plea advisory form that she did not take any medications or drugs

that would affect her ability to enter a guilty plea, that claim was disproved by the record. (Id.)

Responding to the district court's notice of intent to dismiss, Gillard ignored the claims of ineffective assistance of counsel and excessive sentence she raised in her petition for post-conviction relief. (Compare R., pp.4-10 with R., pp.42-45.) Instead, Gillard asserted that her statement "I was heavily sadated [sic] and did not know what I was doing" raised a genuine issue of material fact regarding whether she had entered a valid guilty plea. (R., pp.44-45.) Gillard argued that her guilty plea was invalid because, due to mental illness, she did not understand the consequences of pleading guilty, and therefore should be allowed to withdraw her guilty plea. (Id.)

In its order dismissing Gillard's petition, the district court reminded Gillard that she had claimed that her counsel was ineffective. (R., p.53.) Addressing her argument that her mental illness made her incapable of entering a valid guilty plea, the district court responded that it regularly dealt with people with mental illness, that it had the benefit of Gillard's mental health assessment at sentencing, and that, at sentencing and her plea hearing, "there was no indication that she was not fit to proceed." (R., p.54.) The district court also noted, in connection with Gillard's actual claim that her counsel was ineffective, Gillard had failed to show both deficient performance and a reasonable probability that the outcome would have been different and she would have insisted on going to trial. (Id.) The district court therefore dismissed her petition. (R., pp.53-54.)

On appeal, Gillard disavows her claim of ineffective assistance of counsel and instead argues only that she raised a genuine issue of material fact regarding whether, due to mental illness, she understood the consequences of her guilty plea. (Appellant's

brief, pp.5-10; see also p.9 n.8.) In her petition for post-conviction relief, Gillard presented no evidence that she was incapable of understanding the consequences of her guilty plea. (See R., pp.4-10.) At best her statement, "I was heavily sadated [sic] and did not know what I was doing," could be read as a claim that, due to intoxication, she was unaware of what she was doing when she pleaded guilty, but that claim is disproved by the record: In her guilty plea advisory form, Gillard state that she was diagnosed with paranoid schizophrenia and that she was currently on medications. (Guilty Plea Advisory, p.3 (Augmentation).) However, she also acknowledged that, in the 24 hours preceding her guilty plea, she had not "taken any medications or drugs or drank any alcoholic beverages which [she] believe[d] affect[ed] [her] ability to make a reasoned and informed decision." (Id.)

Even if Gillard's petition could be read to encompass a claim that her guilty plea was invalid because she was generally incapable of understanding the consequences of pleading guilty due to mental illness, there is still no evidence to support that claim. Rather, the record demonstrates that Gillard understood the consequences of her guilty plea: Gillard understood that she was pleading guilty to grand theft and that the maximum penalty she could receive was 14 years. (Id., p.1.) She understood the rights she was waiving by pleading guilty. (Id., pp.1-2.) She understood that she was entering a nonbinding plea agreement, that the court was not bound to follow the parties' sentencing recommendations, and that the court could impose the maximum sentence authorized by law. (Id., p.4.) She understood that she was waiving any defenses she could raise and that she would not be able to challenge any of the district court's rulings. (Id., p.5.) She understood that pleading guilty would result in the loss of certain civil

rights. (Id.) Moreover, she had the benefit of counsel, and her attorney, who Gillard no longer claims offered ineffective assistance (Appellant's brief, p.9 n.8), indicated that he had "discussed, in detail," the questions and answers on her guilty plea advisory form with her (R., p.7).

The record shows that Gillard suffers from mental illness. (PSI, p.21.) However, mental illness, by itself, does not indicate an inability to understand the consequences of pleading guilty. The competency standard for pleading guilty is the same as the competency standard for proceeding to trial. Godinez v. Moran, 509 U.S. 389, 391 (1993). The test for determining competence to stand trial is whether the defendant "has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding and whether he has a rational, as well as factual, understanding of the proceedings against him." State v. Lovelace, 140 Idaho 53, 62, 90 P.3d 278, 287 (2003) (citing Dusky v. United States, 362 U.S. 402 (1960)). The record is replete with examples of Gillard's ability to understand what was happening and assist her attorney. In addition to her coherent responses on her guilty plea advisory form, she handwrote a coherent letter to her judge (Letter from Oneisa Gillard, dated November 24, 2010 (Augmentation)), participated in a mental health evaluation where she was "oriented to all spheres" (PSI, p.20), applied for mental health court (Application to Participate in the Ada County Mental Health Court (Augmentation)), successfully got a referral for mental health court (PSI, p.39), and made a coherent argument to be placed in mental health court (Tr., p.13, L.19 – p.15, L.14).

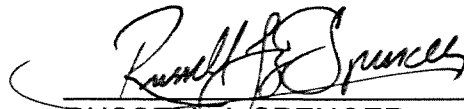
The record demonstrates that Gillard was capable of understanding the consequences of pleading guilty. Her petition for post-conviction relief failed to present

an issue of material fact. On appeal, she has failed to show error in the district court's dismissal of her petition. The district court's order dismissing that petition should be affirmed.¹

CONCLUSION

The state respectfully requests that this Court affirm the district court's order summarily dismissing Gillard's petition for post-conviction relief.

DATED this 19th day of February, 2013.



RUSSELL J. SPENCER
Deputy Attorney General

¹ Gillard also asserts that the district court's statement that "there was no indication that [Gillard] was not fit to proceed" at her plea hearing indicates that it was improperly relying on its own memory of her demeanor during the hearing. (Appellant's brief, p.9.) However, there is no indication that the district court relied solely on its own memory. In its Notice of Intent to Dismiss and Order, the district court noted that it had "considered the application and the record." (R., p.23.) Gillard's ability to understand the proceedings, as noted above, is clear on the record itself.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 19th day of February, 2013, served a true and correct copy of the attached BRIEF OF RESPONDENT by causing a copy addressed to:

JASON C. PINTLER
DEPUTY STATE APPELLATE PUBLIC DEFENDER

to be placed in The State Appellate Public Defender's basket located in the Idaho Supreme Court Clerk's office.

A handwritten signature in black ink, appearing to read "Russell J. Spencer", written over a horizontal line.

RUSSELL J. SPENCER
Deputy Attorney General

RJS/pm

APPENDIX A

NOV 22 2011

CHRISTOPHER D. RICH, Clerk
By JANINE KORSEN
DEPUTY

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

ONEISA MAY GILLARD,)	Case No.: CV PC 1122028
)	
Petitioner,)	
)	
vs.)	NOTICE OF INTENT TO DISMISS AND
)	ORDER
)	
)	
THE STATE OF IDAHO,)	
)	
Respondent.)	

Pursuant to I.C. § 19-4906(b), this Court hereby notifies the above parties of its intention to dismiss the application for post-conviction relief in the above-captioned case.

INTRODUCTION

This action which is brought under the Uniform Post Conviction Procedure Act, Idaho Code §§ 19-4901 through 19-4911. Pursuant to Idaho Code § 19-4906(b), the Court, having considered the application and the record, is satisfied that the applicant is not entitled to post-conviction relief and no purpose would be served by any further proceedings. The applicant will have an opportunity to reply to the proposed dismissal within twenty days as provided by law.

FACTUAL AND PROCEDURAL BACKGROUND

Petitioner Oneisa Gillard pled guilty in case number CR-FE-2010-19487 Grand Theft and was sentenced on April 14, 2011 to a sentence of one year fixed followed by

JM

four years indeterminate. In her post conviction petition she alleges the sentence was excessive and her attorney ineffective.

STANDARD FOR REVIEW

The Uniform Post-Conviction Procedure Act, Idaho Code §§ 19-4901 through 19-4911, provides a mechanism by which a person convicted of a crime may show that his conviction was in violation of the Constitution, that the conviction should be vacated in the interest of justice, or that the conviction is otherwise subject to collateral attack. Idaho Code § 19-4901(a). As such, the act provides an appropriate means for raising claims of ineffective assistance of counsel; however, post-conviction relief proceedings are not a substitute for proceedings in the trial court, or for an appeal from the sentence or conviction. Idaho Code § 19-4901(b).

A petition for post-conviction relief is a special proceeding that is civil in nature; it is a proceeding entirely new and independent from the criminal action that led to the conviction. *Peltier v. State*, 119 Idaho 454, 808 P.2d 373 (1991); *Matthews v. State*, 130 Idaho 39, 41, 936 P.2d 682 (1997). The applicant in a post-conviction case has the burden of proving, by a preponderance of the evidence, the allegations that the applicant contends entitle the applicant to relief. I.C.R. 57(c); *Stuart v. State*, 118 Idaho 865, 801 P.2d 1216 (1990). An application for post-conviction relief differs from a complaint in an ordinary civil action because it must contain more than a "short and plain statement of the claim" that would suffice for a complaint under I.R.C.P. 8(a)(1). Rather, an application for post-conviction relief must be verified with respect to facts within the personal knowledge of the applicant, and affidavits, records or other evidence supporting its applications must be attached, or the application must state why such supporting evidence is not included with the application. Idaho Code § 19-4903; *LaBelle v. State*, 130 Idaho 115, 117, 937 P.2d 427 (1997). In other words, the application must present or be accompanied by admissible evidence supporting its allegations or the application will be subject to dismissal. *LaBelle*, 130 Idaho at 117. Bare and conclusory allegations, unsubstantiated by any fact, are inadequate to entitle an applicant to an evidentiary hearing. *LaBelle*, 130 Idaho at 121; *Nguyen v. State*, 126 Idaho 494, 497, 887 P.2d 39 (Ct. App. 1994).

Summary disposition under Idaho Code § 19-4906(b) is the procedural equivalent of summary judgment under I.R.C.P. 56. *Ramirez v. State*, 113 Idaho 87, 89, 741 P.2d 374 (Ct. App. 1987). A trial court may grant a motion by either party for summary disposition of an application for post-conviction relief or on its own where it appears from the pleadings, together with any depositions, answers to interrogatories, admissions, agreements of fact, and affidavits submitted, that no genuine issue of fact exists. Idaho Code § 19-4906(c). However, where issues of material fact exist, an evidentiary hearing must be held. *Parrott v. State*, 117 Idaho 272, 274, 787 P.2d 258 (1990).

DISCUSSION

In support of her Petition for Post Conviction Relief, Gillard alleges her counsel as ineffective in that “I was heavily sedated and did not know what I was doing. I wanted mental health court and my lawyer did not fight for it. I am now concisely aware of what I’m doing. I’m on the proper medication. I needed a competency test and a hearing”.

Her second allegation is that her sentence is excessive.

A. Ineffective Assistance of Counsel.

A criminal defendant may raise a claim of ineffective assistance of counsel either on direct appeal or reserve the issue for post-conviction proceedings. *Parrott*, 117 Idaho at 274. In evaluating an ineffective assistance of counsel claim, there is a strong presumption that counsel's performance was within the wide range of professional assistance as "sound trial strategy." *Campbell v. State*, 130 Idaho 546, 548, 944 P.2d 143 (Ct. App. 1997). Strategic or tactical decisions made by trial counsel will not be second-guessed on review, unless those decisions were made upon a basis of inadequate preparation, ignorance of the relevant law, or other shortcomings capable of objective evaluation. *Id.*

In order for a defendant in a criminal proceeding to establish that his constitutional right to effective assistance of counsel has been violated, the defendant must show two things: the defendant must demonstrate that his counsel's performance was deficient and the defendant must show that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. *Strickland v. Washington*, 466 U.S. 668, 694 (1984). In the context of a challenge to a guilty plea, the defendant must show that there is a reasonable probability

that, but for counsel's errors, he would not have plead guilty and would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985). To show counsel's performance was deficient, the applicant for post-conviction relief has the burden of proving that the attorney's conduct fell below an objective standard of reasonableness. *State v. Porter*, 130 Idaho 772, 791, 948 P.2d 127 (1997), *cert. denied* 523 U.S. 1126 (1998); *Matthews*, 130 Idaho at 42.

It appears Gillard is alleging that at the time she committed the offense she was heavily sedated and that this condition somehow excuses her from committing the crime. Idaho Code 18-116 states intoxication is not a defense. To the extent Gillard may be claiming that she was heavily sedated at the time of her plea and sentencing, there is nothing in the record to support this claim. In fact when she filled out her guilty plea form she stated she had not taken any medications or drugs that would affect her ability to make a reasoned and informed decision. The court therefore gives notice of intent to dismiss this claim.

Gillard also appears to claim that a competency evaluation should have been ordered. There is no indication from the record that Gillard lacked the capacity to understand the proceedings against her or to assist in her own defense. A competency evaluation was not required pursuant to Idaho Code 18-210. The court gives notice of its intent to dismiss this claim.

Gillard next claims that she wanted Mental Health Court (MHC) and her attorney did not fight for it. The record clearly shows that her attorney fought for MHC. The court ordered an assessment for MHC and she was approved for acceptance into MHC. At the very beginning, the state indicated its opposition to MHC. However, her attorney wanted this consideration. Her attorney argued MHC at sentencing, but ultimately the court agreed with the State and imposed sentence to the Department of Corrections. The court gives notice of its intent to dismiss this claim.

B. Excessive Sentencing

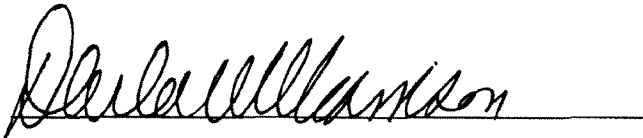
Gillard has not presented any facts that suggest she is entitled to post conviction relief on this issue. The sentence was fair and within the statutory penalty. The court gives notice of intent to dismiss this claim.

CONCLUSION

On the basis of the application and the present record before it, this Court is satisfied that Gillard is not entitled to post-conviction relief and that no purpose would be served by any further proceedings. Gillard is hereby granted twenty (20) days to reply to the proposed dismissal of this action. In light of the reply, or on default thereof, the Court may order the application dismissed or grant leave to file an amended application, or direct that the proceedings otherwise continue.

It is so ordered.

Dated this 21st day of November, 2011.



Darla Williamson, District Judge

I certify that a true and correct copy hereof was this date mailed to each of the following:

Tanner Stellmon
Deputy Ada County Prosecuting Attorney
INTERDEPARTMENTAL MAIL

Ada County Public Defender
INTERDEPARTMENTAL MAIL

Dated: November 29, 2011 Signed: Janine Hoover
Deputy Clerk

