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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,)	
)	
vs.)	Supreme Court Docket Number 40477-2012
)	Bear Lake County Docket Number 1997-228
TEDDY LYNN EDGHILL,)	
)	
Defendant-Appellant.)	Appellant's Brief
_____)	

APPELLANTS' BRIEF

Appeal from the District Court of the Sixth Judicial District for Bear Lake County

The Honorable Mitchell W. Brown

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I.

STATEMENT OF THE CASE

A. Nature of the Case

On September 17, 1997, the Appellant, Teddy Lynn Edghill, was driving a jeep. Several children were riding on the front bumper of the vehicle. At some point, one of the children who was riding on the front bumper either jumped or fell off the front bumper and was ran over by the jeep. The minor child died a short time later from the injuries sustained in the accident. Edghill was charged with vehicular manslaughter. I.C. § 18-4006(3)(a). Edghill pled guilty and was sentenced to a unified six-year term of incarceration, with three years fixed. The District Court also suspended Edghill's driver's license for life. The District Court also retained jurisdiction in this matter. At the expiration of the retained jurisdiction period, the District Court suspended execution of Edghill's sentence and placed him on probation for a period of four years.

B. Course of Proceeding and Statement of Facts

On September 11, 1998, Edghill filed an Idaho Criminal Rule 35 Motion, contending that the lifetime suspension of his driver's license was illegal. Edghill also requested leniency in his sentence, seeking a withheld judgment. On September 24, 1998 following a hearing on Edghill's motion, the District Court entered an order denying the request for a withheld judgment. However, the District Court took Edghill's motion, insofar as it pertained to the legality of the lifetime suspension of his driver's license, under advisement. On December 22, 1998, the District Court issued a separate order finding that the lifetime suspension of Edghill's driver's license was not an illegal sentence. On December 18, 1998, in an Order Amending Judgment of Conviction, the

District Court ruled, "The Court is still of the opinion the driver's license of Teddy Edghill should be suspended for life and therefore the motion to adjust the sentenced is denied. However, (sic) court would consider a petition to allow Mr. Edghill to apply for a driver's license after ten (10) years has expired from May 21, 1998, the date of the original judgment."

Edghill appealed to the Idaho Court of Appeals. The Court of Appeals held that the District Court did not abuse its discretion when it denied Edghill's Rule 35 motion insofar as it pertained to Edghill's request for a withheld judgment. The Court of Appeals also held that a lifetime driver's license suspension pursuant to I.C. § 18-4007(3)(d) is not an illegal sentence, affirming the District Court.

Edghill successfully completed his retained jurisdiction program and successfully completed his term of probation. On December 6, 2001, the original charge of Manslaughter was reduced to a misdemeanor and Edghill was released from probation.

After ten years had elapsed, Edghill requested that Judge Harding reinstate his driving privileges. On July 11, 2006, "after talking with the Bear Lake County Prosecutor and the Bear Lake County Sherriff," Judge Harding in an Order for Conditional Driving Permit, granted Edghill a temporary driving permit for one year. The Order for Conditional Driving Permit restricted Edghill to operating an ATV (all terrain vehicle), "to and from work and other common destinations within the community of St. Charles or job locations near St. Charles, Idaho, including access to public lands." Edghill successfully completed this one year of conditional driving permit without any driving incidents or violations of the law.

After the Order for Conditional Driving Permit for one year had expired, Edghill again requested the District Court to grant him driving privileges. On September 18, 2008, Judge Harding granted Edghill a conditional driving permit for a second time. This second Order for Conditional Driving Permit, granted Edghill a temporary driving permit for a period of two years. The terms of Judge Harding's second Order were basically the same as his first order and Edghill was again restricted to operating an ATV (all terrain vehicle), "to and from work and other common destinations within the community of St. Charles or job locations near St. Charles, Idaho, including access to public lands." Edghill completed these two years with his conditional driving permit without any driving incidents or violations of the law.

On January 23, 2013, Edghill filed a Motion to Reinstate Driving Privileges. The Honorable Mitchell W. Brown was then the presiding judge in this matter. Judge Brown took this matter under advisement. In a Minute Entry and Order, Judge Brown denied the motion to reinstate Edghill's driving privileges. Edghill filed a Rule 35 Motion claiming that the original sentence imposed by Judge Harding was an illegal sentence and requested that Court set aside the illegal sentence and resentence Edghill, or in the alternative to correct the illegal sentence imposed by Judge Harding and allow Edghill to regain his driving privileges. In a Memorandum Decision and Order on Defendant's Rule 35 Motion dated October 2, 2012, Judge Brown denied Edghill's Rule 35 Motion. The Court held that the portion of Judge Harding's original sentence which allowed Edghill to come back to Court in ten years to request driving privileges was in fact illegal because the Court lacked ongoing jurisdiction to review and modify a final judgment. Judge Brown stated that the Court had the power to decide that one portion of a sentence is illegal, thereby striking or giving no effect to that portion of the sentence, and at the same time affirming

and enforcing the legal portion of a sentence. Edghill appeals the correction, modification or new sentence imposed by Judge Brown.

II.

ISSUES PRESENTED ON APPEAL

The issues before this Court on Appeal can be summarized as follows:

1. Judge Brown by correcting, modifying or imposing a new sentence on the Appellant by striking the clause that allowed the Appellant to apply for driving privileges after a ten year period, resulted in the Appellant receiving a harsher sentence than the sentenced originally imposed by Judge Harding.

2. Judge Brown's Memorandum Decision and Order on Defendant's Rule 35 Motion dated October 12, 2012, which either corrected, modified or imposed a new sentence that suspended the driving privileges of the Appellant for the remainder of his life was an abuse of discretion.

3. The original sentence by Judge Harding was an illegal sentence and the Appellant should be granted a new sentencing.

III.

ARGUMENT

1. Judge Brown by correcting, modifying or imposing a new sentence on the Appellant by striking the clause that allowed the Appellant to apply for driving privileges after a ten year period, resulted in the Appellant receiving a harsher sentence than the sentenced originally imposed by Judge Harding.

1. Standard of Review

Idaho Criminal Rule 35 provides, in pertinent part: "The court may correct an illegal sentence at any time and may correct a sentence that has been imposed in an illegal manner within the time provided herein for the reduction of sentence." The term "illegal sentence" is not defined under Rule 35. "Where the lower court's decision turns on the interpretation of a criminal rule, this Court exercises free review." *State v. Castro*, 145 Idaho 173, 175, 177 P.3d 387, 389 (2008). Idaho Criminal Rule 35 is a narrow rule that allows a trial court to correct an illegal sentence at any time, or to correct a sentence imposed in an illegal manner within 120 days. *State v. Farwell*, 144 Idaho 732, 735, 170 P.3d 397, 400 (2007); I.C.R. 35. "Generally, whether a sentence is illegal or whether it was imposed in an illegal manner is a question of law, over which the Court exercises free review." *Farwell*, 144 Idaho at 735, 170 P.3d at 400.

The Court is guided in its analysis by the following principles. Whenever a judge imposes a more severe sentence upon a defendant after a new trial, the reasons for doing so must affirmatively appear. *State v. Robbins*, 123 Idaho 527, 530, 850 P.2d 176, 179 (1993), citing *North Carolina v. Pearce*, 395 U.S. 711, 726, 89 S.Ct. 2072, 2081, 23 L.Ed.2d 656, 670 (1969). This rule implies a presumption of vindictiveness, which may be overcome only by objective information in the record justifying the increased sentence. *Robbins*, 123 Idaho at 530, 850 P.2d at 179. However, when the sentence is pronounced by a different judge, the presumption does not apply and the defendant must show actual vindictiveness. *Robbins*, 123 Idaho at 532, 850 P.2d at 181. By refusing to allow the Appellant to apply for reinstatement of his driving privileges, Judge Brown in

his Memorandum Decision and Order regarding Defendant's Rule 35 Motion dated October 2, 2012 imposed a harsher sentence on the Appellant. While the Appellant received a lifetime suspension of his driving privileges from Judge Harding, Judge Harding also left the door open for the Edghill to regain his driving privileges after a suspension period of ten years. In fact, Judge Harding had on two separate occasions granted Edghill conditional driving privileges. The first time was for a period of one year and the second occasion was for a period of two years. Judge Brown closed the door on Edghill ever regaining his driving privileges. The end result is Edghill received a harsher sentence nearly fourteen years after Judge Harding signed an Order which allowed Edghill the possibility to regain his driving privileges. Judge Brown did not set forth any objective information in the record to justify the increase in Edghill's sentence and it was vindictive to impose a harsher sentence on Edghill.

In *Pearce*, the Supreme Court ruled that imposition of a heavier sentence following retrial would violate due process, if the motivation for the heavier sentence were to punish the defendant for getting the original conviction set aside. To protect a defendant from retaliatory motivation, the Court held that "whenever a judge imposes a more severe sentence upon a defendant after a new trial, the reasons for [the judge's] doing so must affirmatively appear." 395 U.S. at 726, 89 S.Ct. at 2081, 23 L.Ed.2d at 670. This rule has been read to "[apply] a presumption of vindictiveness, which may be overcome only by objective information in the record justifying the increased sentence." *United States v. Goodwin*, 457 U.S. 368, 374, 102 S.Ct. 2485, 2489, 73 L.Ed.2d 74, 81 (1982). The facts of this case are not of a defendant who is being sentenced after having his original sentence set aside, however the analysis should be the same. The Memorandum Decision and Order on Defendant's Rule 35 Motion of Judge Brown can be characterized as a modification

of a sentence, the correction of a sentence or the imposition of a new sentence. Regardless of what Judge Brown did is characterized, the end result is that the Edghill went from having the opportunity to have his driving privileges reinstated to having no possibility of having his driving privileges ever being reinstated. There is no objective information set forth in Judge Brown's Memorandum Decision and Order explaining why Edghill should receive a heavier sentence other than he believed the Court did not have ongoing jurisdiction to oversee Edghill's driving privileges. The heavier sentence imposed on Edghill was not deserved. Edghill successfully completed the Retained Jurisdiction Program and successfully completed his probation. Edghill did not have any further violations of the law except for a charge of an invalid license conviction in 2005. TR. February 16, 2012 Hearing, P. 31 L. 8-14. Edghill had become a productive member of society. Edghill had a consistent work history and had been employed for the same construction company for the past five years TR. February 16, 2012 Hearing P.10 L.22-25. Edghill was a member of the local volunteer fire department TR. February 16, 2012 Hearing P.15 L.7-9. Edghill had made the type of progress in his life that should have allowed him to have his driving privileges reinstated.

2. Judge Brown's Memorandum Decision and Order on Defendant's Rule 35 Motion dated October 12, 2012, which either corrected, modified or imposed a new sentence that suspended the driving privileges of the Appellant for the remainder of his life was an abuse of discretion.

A sentence may represent a "clear abuse of discretion" if it is shown to be unreasonable upon the facts of the case. *State v. Nice*, 103 Idaho 89, 645 P.2d 323 (1982); *State v. Dillon*, 100

Idaho 723, 604 P.2d 737 (1979). This formulation recasts the "clear abuse" standard in positive terms, and enables the Court to focus upon the ingredients of "reasonableness." Reasonableness implies that a term of confinement should be tailored to the purposes for which the sentence is imposed.

An appellate review of a sentence is based on an abuse of discretion standard. State v. Burdett, 134 Idaho 271, 276, 1 P.3d 299, 304 (Ct. App. 2000). Where a sentence is not illegal, the appellant has the burden to show that it is unreasonable, and thus a clear abuse of discretion. State v. Brown, 121 Idaho 385, 393, 825 P.2d 482, 490 (1992). A sentence of confinement is reasonable if it appears at the time of sentencing that confinement is necessary to accomplish the primary objective of protecting society and to achieve any or all of the related goals of deterrence, rehabilitation or retribution applicable to a given case. State v. Toohill, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). Where an appellant contends that the sentencing court imposed an excessively harsh sentence, an appellate court will conduct an independent review of the record, having regard for the nature of the offense, the character of the offender and the protection of the public interest. State v. Reinke, 103 Idaho 771, 772, 653 P.2d 1183, 1184 (Ct. App. 1982). After a review of all the facts and circumstances of a case, the Court will find that a trial court abused its discretion in sentencing only if the defendant, in light of the objectives of sentencing, shows the sentence was excessive under any reasonable view of the facts. State v. Cope, 142 Idaho 492, 500-01, 129 P.3d 1241, 1249-50 (2006); State v. Charboneau, 124 Idaho 497, 499, 861 P.2d 67, 69 (1993); Brown, 121 Idaho at 393, 825 P.2d at 490.

The lifetime suspension of Edghill's driving privileges is unduly harsh. Edghill was twenty-nine years old when the accident occurred which resulted in him being charged with

manslaughter. At that time he had been legally driving for 12 or 13 years and his only driving offense up until that point was a speeding ticket. TR. February 16, 2012 Hearing P10. L. 1-14. Edghill had been a model citizen. While the facts surrounding the charge of vehicular manslaughter are tragic, suspending the driving privileges of Edghill who resides in rural Idaho for life is a draconian penalty. Edghill is remorseful about what happened back in 1997. He has completed everything that was requested of him at the time of sentencing. He completed the retained jurisdiction program, successfully completed probation, paid off all his financial obligations to the Court and has been a contributing member of society. There is nothing to indicate that he has not been fully rehabilitated. Under the facts of this case it is unreasonable to impose a lifetime suspension of driving privileges for a twenty-nine year old person with a minimal driving record and a minimal criminal history.

3. The original sentence by Judge Harding was an illegal sentence and the Appellant should be granted a new sentencing.

There is no argument that the sentence imposed by Judge Harding was illegal. Edghill's sentenced gave Judge Harding jurisdiction over Edghill's driving privileges for the remainder of Edghill's life. It clearly appears that Judge Harding wanted to suspend the driving privileges of Edghill for a period of ten years and then Judge Harding would be able to observe what Edghill did over that period of time and with that information make a determination on whether or not to reinstate Edghill's driving privileges. The Court clearly does not have jurisdiction to operate in this way. Edghill should be allowed to be resentenced and receive a sentence that is not illegal

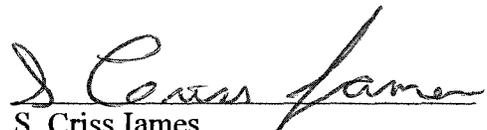
and would allow Edghill the opportunity to have his driving privileges reinstated subject to the requirements of the Idaho Transportation Department Driver's Services.

IV.

CONCLUSION

Teddy Edghill received a harsher sentence from Judge Brown than he received from Judge Harding. There is no objective information set forth to justify the harsher sentence and said sentence is vindictive. Judge Brown suspending the driving privileges of Teddy Edghill for his entire life is excessive and unreasonable and a clear abuse of discretion. The sentence of Judge Harding was an illegal sentence and Teddy Edghill respectfully request this matter be remanded to the District Court for a resentencing with an instruction that Teddy Edghill cannot have his driving privileges suspended for more than a ten year period from the date of his original sentence.

DATED this 13th day of March, 2013.

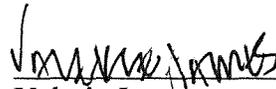

S. Criss James
Attorney for Appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 17th day of March, 2013, I served a true and correct copy of the foregoing document on the following by the method indicated:

<u>ATTORNEY(S)/PERSON(S)</u>	<u>METHOD</u>
Lawrence G. Wasden Office of the Attorney General Criminal Law Division P.O. Box 83720 Boise, Idaho 83720-0010	US Mail

DATED this 17th day of March, 2013



Valerie James