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COPY

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 40664
Plaintiff-Respondent,)	
)	BANNOCK COUNTY
)	NO. CR 2011-20165
v.)	
)	
MOISES GOMEZ,)	APPELLANT'S BRIEF
)	
Defendant-Appellant.)	
_____)	

BRIEF OF APPELLANT

APPEAL FROM THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

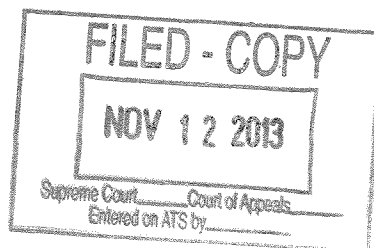
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STATEMENT OF THE CASE

Pursuant to a plea agreement, Moises Gomez, pled guilty to one count of sexual abuse of a minor child under the age of sixteen.¹ He received a unified sentence of eight years, with three years fixed, and after successfully completing a period of retained jurisdiction, the district court placed him on probation.

On appeal, Mr. Gomez contends the district court erred in denying his motion to withdraw his guilty plea, as that plea was not knowing, intelligent and voluntary.² Mr. Gomez also contends that his sentence represents an abuse of the district court's discretion because, given any view of the facts in this case and in Mr. Gomez's life, a sentence of eight years, with three years fixed, is excessive.

Statement of the Facts and Course of Proceedings

In 1999, Moises Gomez gave an inappropriate massage to a 14 year old friend of the family. (Presentence Investigation Report (*hereinafter*, PSI), p.3.) Mr. Gomez told his LDS stake president about the incident several years later and was disfellowshipped from the church. (PSI, pp.3-4; PSE, p.2.) He saw the victim, S.B., in July of 2011, and called her. (PSI, pp.3-4; PSE, p.2.) S.B. was 26 years old when Mr. Gomez telephoned her to apologize to her and to let her know that he had been disfellowshipped. (PSI,

¹ The Judgment of Conviction contains a clerical error in that it reflects that Mr. Gomez pled guilty to sexual battery of a minor age 16 or 17. (R., pp.66-72.) Mr. Gomez pled guilty to, and was convicted of, sexual abuse of a minor under age 16, in violation of I.C. § 18-1506(1)(b). (7/23/12 Tr., p.2, L.7 – p.9, L.21; 12/3/12 Tr., p.14, Ls.5-8.)

² By asserting that he relied on any inaccurate statements or misrepresentations of the law by his counsel thereby rendering his guilty plea less than knowing, intelligent, and voluntary, Mr. Gomez is not asserting an ineffective assistance of counsel claim in his Appellant's Brief. He specifically reserves the right to allege ineffective assistance of counsel through a petition for post-conviction relief.

pp.3-4; PSE, p.2, 7.) S.B. then reported the incident to the police. (PSI, pp.2-4; PSE, p.2.)

Mr. Gomez was initially charged with one count of sexual battery of a minor child sixteen or seventeen years of age and one count of lewd conduct with a child under sixteen for the conduct that allegedly occurred 12 years prior. (R., pp.1-2.) At Mr. Gomez's preliminary hearing, the magistrate court granted the State's motion to amend count one to sexual abuse of a child under the age of sixteen. (R., pp.15-16.) Pursuant to a plea agreement, Mr. Gomez pled guilty to count one, sexual abuse of a child under the age of sixteen, under I.C. Section 18-1506(1)(b), and the other charged offense was dismissed. (7/23/12 Tr., p.1, L.17 – p.9, L.21; R., pp.17-18.) The plea agreement also included a sentencing recommendation—should the psychosexual evaluator find that Mr. Gomez was a low risk to reoffend, the State agreed to recommend probation. (7/23/12 Tr., p.2, Ls.7-12; R., pp.39-42.) At the change of plea hearing, the district court asked Mr. Gomez if he read and understood the English language, and Mr. Gomez responded affirmatively. (7/23/12 Tr., p.5, Ls.10-12.) Mr. Gomez did not have an interpreter present in the courtroom with him, although he was not a United States Citizen and English is a second language for him. (7/23/12 Tr., p.7, L.24 – p.8, L.1; R., pp.50-51.)

The district court accepted Mr. Gomez's plea of guilty to sexual abuse of a child under the age of sixteen under I.C. § 18-1506(1)(b) and dismissed count two. (7/23/12 Tr., p.2, Ls.7-16, p.9, Ls.13-21.) A few months after he pled guilty, Mr. Gomez sought to withdraw his guilty plea and, through counsel, filed a Motion to Withdraw Guilty Plea. (R., pp.58-59.) The hearing on Mr. Gomez's motion was continued several times and then the motion was withdrawn without explanation. (R., pp.60-64.)

At his sentencing hearing, Mr. Gomez, through his counsel, offered information as to his lack of a criminal history, his remorse and his acceptance of responsibility. (12/3/12 Tr., p.16, L.1 – p.18, L.22.) Despite these mitigating factors, the district court sentenced Mr. Gomez to eight years, with three years fixed, but the district court retained jurisdiction over Mr. Gomez and ultimately placed him on probation for eight years. (12/3/12 Tr., p.23, Ls.3-7; 7/22/13 Tr., p.6, Ls.15-20; R., pp.66-72.) The judgment of conviction was entered on December 3, 2012. (R., pp.66-72.)

On January 10, 2013, Mr. Gomez filed a notice of appeal that was timely from the judgment. (R., pp.74-78.) Some months later, Mr. Gomez filed a second motion seeking leave to withdraw his guilty plea (Motion to Withdraw Plea of Guilty, pp.1-3.³) Mr. Gomez, through his counsel, also filed a motion seeking to have an interpreter appointed to assist Mr. Gomez in communicating with his counsel, and that motion was granted by the district court. (Motion to Appoint Interpreter, p.1; 7/15/13 Minute Entry & Order, p.1.⁴) The basis for Mr. Gomez's motion to withdraw his guilty plea was that he did not understand the proceedings due to a language barrier, and he was incorrectly advised by his counsel as to whether he would be deported. (See generally 7/15/13 Tr.; see also Motion to Withdraw Plea of Guilty, p.2; 7/16/13 Affidavit, p.2; 7/18/13 Affidavit, pp.1-2.) At a hearing on the matter, the district court heard the arguments of counsel and Mr. Gomez, and it took the matter under advisement. (7/15/13 Tr., p.6, L.21 – p.14, L.1.)

The district court issued a separate written decision denying Mr. Gomez's motion. (Decision on Motion to Set Aside Guilty Plea, pp.1-9.⁵) In its written decision,

³ Attached to the Motion to Augment filed on 9/4/13.

⁴ Attached to the Motion to Augment filed on 9/4/13.

⁵ Attached to the Motion to Augment filed on 9/4/13.

the district court found that Mr. Gomez understood the proceedings and that he understood that it was possible that he would be deported. (Decision on Motion to Set Aside Guilty Plea, p.5.⁶) Mr. Gomez is appealing the denial of his Motion to Withdraw Guilty Plea and also asserts that his sentence is excessive given any view of the facts.

⁶ Attached to the Motion to Augment filed on 9/4/13.

ISSUES

1. Did the district court err in denying Mr. Gomez's Motion to Withdraw Guilty Plea?
2. Did the district court abuse its discretion when it imposed a sentence of eight years, with three years fixed, upon Mr. Gomez following his plea of guilty?

ARGUMENT

I.

The District Court Erred In Denying Mr. Gomez's Motion To Withdraw His Guilty Plea As That Plea Was Not Knowing, Intelligent, And Voluntary

A. Introduction

Mr. Gomez filed a motion to withdraw his guilty plea after sentencing. The district court denied Mr. Gomez's motion. Mindful of the fact that Mr. Gomez stated on the record that he read and understood English, and responded "yes" to this question in writing on the guilty plea questionnaire, and mindful of the fact that both his counsel and the district court advised Mr. Gomez that he could possibly be deported, Mr. Gomez asserts that he did not understand the legal proceedings and did not understand that he could be deported if he pled guilty. As a result, Mr. Gomez's plea of guilty was legally defective. Mr. Gomez asserts that the district court erred in denying his motion to withdraw his guilty plea.

B. Standard Of Review

Should a guilty plea be found legally defective, relief must be granted. *State v. Rodriguez*, 118 Idaho 957 (Ct. App.1990). The United States Supreme Court has held that a guilty plea, entered without the defendant understanding all of the elements of the crime to which he is pleading guilty, is constitutionally invalid. *Bousley v. United States*, 523 U.S. 614, 618-619 (1998). This Court reviews constitutional claims *de novo*. See, e.g., *State v. Weber*, 140 Idaho 89, 91 (2004).

C. The General Law Governing Motions To Withdraw Guilty Pleas After Entry Of A Judgment Of Conviction

Motions for withdrawal of pleas are governed by I.C.R. 33(c). After a defendant has been sentenced, a motion to withdraw a guilty plea generally will be granted only to correct manifest injustice. Idaho Criminal Rule 33(c); *State v. Huffman*, 137 Idaho 886, 887 (Ct. App. 2002); *State v. McFarland*, 130 Idaho 358, 361 (Ct. App. 1997). It is the defendant's burden to show that a manifest injustice would result if the motion to withdraw the guilty plea were denied. *State v. Gomez*, 124 Idaho 177, 178 (Ct. App. 1993).

Manifest injustice will be found if the plea was not taken in compliance with constitutional due process standards, which require that a guilty plea be entered voluntarily, knowingly, and intelligently. *Huffman*, 137 Idaho at 887; *State v. Heredia*, 144 Idaho 95, 97 (2007); *State v. Gardner*, 126 Idaho 428, 432 (Ct. App. 1994); *State v. Detweiler*, 115 Idaho 443, 446 (Ct. App. 1989); *Brooks v. State*, 108 Idaho 855, 857 (Ct. App. 1985), *Boykin v. Alabama*, 395 U.S. 238, 242 (1969).

One of the requirements of a constitutionally valid plea is that the defendant understood the consequences of pleading guilty. *State v. Coyler*, 98 Idaho 32, 34 (1976). However, a limitation on this principle is that the district court is only obligated to inform the defendant of the direct consequences of a plea prior to its acceptance – the “trial court is not required to inform a defendant of consequences that are collateral or indirect.” *State v. Heredia*, 144 Idaho 95, 97-98 (2007); *But C.f. Steele v. State*, 153 Idaho 783, 787 (Ct. App. 2012) (holding that the failure to advise a defendant of a collateral consequence of the guilty plea does not constitute ineffective assistance of counsel except in the deportation context). A consequence of a guilty plea is direct if it

presents “a definite, immediate and largely automatic effect on the defendant’s range of punishment.” *State v. Huffman*, 137 Idaho 886, 887 (Ct. App. 2002).

The United States Supreme Court has stated, “deportation is an integral part—indeed, sometimes the most important part—of the penalty that may be imposed on noncitizen defendants who plead guilty to specified crimes.” *Padilla v. Kentucky*, 559 U.S. 356, 364 (2010). Given what the *Padilla* Court referred to as the “unique nature of deportation,” and its view of the intimate relation between criminal convictions, deportation consequences cannot be neatly classified as either a direct or a collateral consequence. *Padilla*, 559 U.S. at 365-66. The “drastic measure” of deportation – the modern equivalent of banishment – as it exists now is described by the *Padilla* Court as follows:

We have long recognized that deportation is a particularly severe “penalty;” but it is not, in a strict sense, a criminal sanction. Although removal proceedings are civil in nature, deportation is nevertheless intimately related to the criminal process. Our law has enmeshed criminal convictions and the penalty of deportation for nearly a century. And, importantly, recent changes in our immigration law have made removal nearly an automatic result for a broad class of noncitizen offenders. Thus, we find it “most difficult” to divorce the penalty from the conviction in the deportation context. Moreover, we are quite confident that noncitizen defendants facing a risk of deportation find it even more difficult.

Id. at 365-66 (internal citations omitted).

The Idaho Court of Appeals recently recognized, in light of the United States Supreme Court decision in *Padilla*, that an attorney may be found ineffective for failing to inform a client of collateral consequences of a plea when that consequence was the client’s potential deportation. *Steele v. State*, 153 Idaho 783, 787 (Ct. App. 2012). However, the *Steele* Court also noted that *Padilla* did not address whether the distinction between direct and collateral consequences was appropriate under a due process analysis. *Id.*

D. The District Court Erred When It Denied Mr. Gomez's Motion To Withdraw His Guilty Plea

Mr. Gomez asserts that the district court erred in denying his motion to withdraw his guilty plea. Mr. Gomez contends that he provided the district court with reasons constituting manifest injustice for the withdrawal of his guilty plea and he should have been allowed to withdraw his plea, as it was not knowingly, intelligently, and voluntarily entered.

Mr. Gomez pled guilty to one count of sexual abuse of a minor under the age of 16 on July 23, 2012. (See generally, 7/23/12 Tr.) As it was taking Mr. Gomez's plea, the district court asked defense counsel if Mr. Gomez could possibly be deported as a result of his plea of guilty. (7/23/12 Tr., p.7, Ls.22-23.) Defense counsel responded: "Well, there are to the extent that he's ever incarcerated, yes. But he is not a United States citizen." (7/23/12 Tr., p.7, L.24 – p.8, L.1.) The court inquired further, and defense counsel assured the district court that Mr. Gomez had been advised of the immigration consequences should he be convicted of a felony. (7/23/12 Tr., p.8, Ls.2-5.) The district court told Mr. Gomez, "So, sir, you understand that by pleading guilty to this crime there is a possibility that you could be deported?" (7/23/12 Tr., p.8, Ls.6-8.) Mr. Gomez answered in the affirmative. (7/23/12 Tr., p.8, L.9.) Mr. Gomez completed a guilty plea questionnaire in which one of the questions was whether he could read and write the English language. (R., p.44.) Mr. Gomez circled "yes." (R., p.44.) Mr. Gomez also signed a written plea agreement in which it was asserted that Mr. Gomez spoke and read English fluently. (R., p.42.) Mr. Gomez also testified via affidavit that his

counsel told him that if he “kept him out of jail” he would not be deported. (7/16/13 Affidavit, p.2.⁷)

Mr. Gomez first tried to withdraw his guilty plea after the presentencing investigator told him that he would be deported for a conviction of the offense of sexual abuse of a minor under age 16. (R., pp.58-59; 8/16/13 Affidavit, p.3; 7/18/13 Affidavit, p.1.). The hearing on Mr. Gomez’s motion to withdraw his guilty plea was continued several times and then withdrawn for reasons unclear from the face of the record. (R., pp.60-64.)

Several months later, and after he had been sentenced, Mr. Gomez filed a second motion seeking leave to withdraw his guilty plea (Motion to Withdraw Plea of Guilty, pp.1-3.⁸) Mr. Gomez, through his counsel, also filed a motion seeking to have an interpreter appointed to assist Mr. Gomez in communicating with his counsel, and that motion was granted by the district court. (Motion to Appoint Interpreter, p.1; 7/15/13 Minute Entry & Order, p.1.⁹) The basis for Mr. Gomez’s motion to withdraw his guilty plea was that he did not understand the proceedings due to a language barrier, and he was incorrectly advised by his counsel as to whether he would be deported. (See *generally* 7/15/13 Tr.; see *also* Motion to Withdraw Plea of Guilty, p.2; 7/16/13 Affidavit, p.2; 7/18/13 Affidavit, pp.1-2.)

On July 15, 2013, a hearing was held on Mr. Gomez’s motion to withdraw his guilty plea. (See *generally* 7/15/13 Tr.) At that hearing, defense counsel argued that Mr. Gomez entered his plea of guilty in reliance on his counsel’s advice, and he had told Mr. Gomez that he would not be deported even if he pled guilty to the felony, so long as

⁷ Attached to the Motion to Augment filed on 9/4/13.

⁸ Attached to the Motion to Augment filed on 9/4/13.

⁹ Attached to the Motion to Augment filed on 9/4/13.

he was not incarcerated. (7/15/13 Tr., p.7, Ls.14-20.) At the hearing, the district court heard the arguments of counsel and Mr. Gomez and took the matter under advisement. (7/15/13 Tr., p.6, L.21 – p.14, L.1.)

The district court issued a separate written decision denying Mr. Gomez's motion. (Decision on Motion to Set Aside Guilty Plea, pp.1-9.¹⁰) In its written decision, the district court found that Mr. Gomez understood the proceedings and that he understood that it was possible that he would be deported. (Decision on Motion to Set Aside Guilty Plea, p.5.¹¹)

Mindful of the fact that Mr. Gomez stated on the record that he read and understood English, and responded "yes" to this question in writing on the guilty plea questionnaire, and mindful that both his counsel and the district court advised Mr. Gomez that he could possibly be deported, Mr. Gomez asserts that he did not understand the legal proceedings and did not understand that he would be deported if he pled guilty. As a result, Mr. Gomez's plea of guilty was legally defective. The district court should have found a manifest injustice would have resulted should Mr. Gomez's guilty plea stand, as Mr. Gomez had pled guilty whilst unaware of the immigration consequences. The district court erred in denying Mr. Gomez's Motion to Withdraw Guilty Plea.

¹⁰ Attached to the Motion to Augment filed on 9/4/13.

¹¹ Attached to the Motion to Augment filed on 9/4/13.

II.

The District Court Abused Its Discretion When It Imposed A Sentence Of Eight Years, With Three Years Fixed, Upon Mr. Gomez Following His Plea Of Guilty To One Count Of Sexual Abuse Of A Minor

Mr. Gomez asserts that, given any view of the facts, his unified sentence of eight years, with three years fixed, is excessive. Where a defendant contends that the sentencing court imposed an excessively harsh sentence, the appellate court will conduct an independent review of the record giving consideration to the nature of the offense, the character of the offender, and the protection of the public interest. See *State v. Reinke*, 103 Idaho 771 (Ct. App. 1982).

The Idaho Supreme Court has held that, “[w]here a sentence is within statutory limits, an appellant has the burden of showing a clear abuse of discretion on the part of the court imposing the sentence.” *State v. Jackson*, 130 Idaho 293, 294 (1997) (quoting *State v. Cotton*, 100 Idaho 573, 577 (1979)). Mr. Gomez does not allege that his sentence exceeds the statutory maximum. Accordingly, in order to show an abuse of discretion, Mr. Gomez must show that in light of the governing criteria, the sentence is excessive considering any view of the facts. *Id.* The governing criteria or objectives of criminal punishment 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 wrongdoing. *Id.*

In light of the mitigating factors present in this case, Mr. Gomez’s sentence is excessive.

Mr. Gomez has not had an easy life. Mr. Gomez’s mother left the family when he was 10 years old. (PSE, p.3.) This was particularly devastating to Mr. Gomez because he was the youngest child in the family and was especially close to his mother, even

sleeping in the same bed.¹² (PSE, p.3.) He hoped that his mother would return, but she did not. (PSE, p.3.) Thereafter, Mr. Gomez was raised by his father, who physically abused all of the children—kicking and hitting Mr. Gomez with a stick. (PSE, p.3.) Mr. Gomez left the home at age 14 to escape the abuse. (PSE, p.3.)

One important fact that should have received the attention of the district court is that Mr. Gomez has strong support from his family members. See *State v. Shideler*, 103 Idaho 593, 594-595 (1982) (reducing sentence of defendant who had the support of his family and employer in his rehabilitation efforts); see also *State v. Carrasco*, 114 Idaho 348, 354-55 (Ct. App. 1988), *overruled on other grounds*, 117 Idaho 295 (1990) (reducing sentence of first-time offender who had a family depending upon him for support and who accepted responsibility for the offense at issue).

Although Mr. Gomez and his wife divorced in 2011, Mr. Gomez is very close to his three children, and stated that the most important thing in his life is his kids. (PSI, p.12.). He is a father who is very involved in his children's lives.¹³ (PSI, p.10.) The three children, ages 14, 12 and 9, lived with their father after he and their mother separated in 2010. (PSE, p.3.) Mr. Gomez primarily raised his children, whom he will probably not see again.¹⁴ (PSI, p.10.)

Mr. Gomez has maintained consistent employment throughout his life, even owning his own business for over a decade. (PSI, pp.11, 13.) Mr. Gomez owned and operated a business named Janitorial Cleaning Pros., which performed maintenance,

¹² He recalled waking up on the day she left "hugging a pillow." (PSE, p.3.)

¹³ At sentencing, Mr. Gomez professed, "I have three kids. I've been responsible for them. They love me, and I've been a good father for them. I've been responsible for them and support them and help their needs. It hurts that if I get deported I'm not going to be able to see them." (12/3/12 Tr., p.21, L.22 – p.22, L.1.)

janitorial, landscaping, and sprinkler repair work. (PSI, pp.11, 13; PSE, p.3.) Idaho recognizes that good employment history should be considered a mitigating factor. See *State v. Nice*, 103 Idaho 89, 91 (1982); see also *State v. Shideler*, 103 Idaho 593, 595 (1982).

Furthermore, the Idaho Supreme Court has “recognized that the first offender should be accorded more lenient treatment than the habitual criminal.” *State v. Hoskins*, 131 Idaho 670, 673 (Ct. App. 1998) (quoting *State v. Owen*, 73 Idaho 394, 402, 253 P.2d 203, 207 (1953), overruled on other grounds by *State v. Shepherd*, 94 Idaho 227, 486 P.2d 82 (1971)); see also *State v. Nice*, 103 Idaho 89, 91 (1982). Prior to these charges, Mr. Gomez had never been convicted of a crime. (PSI, pp.7, 13.)

Although not determinative when deciding on an appropriate punishment, rehabilitation is an important factor which should be considered by the district court. See *State v. James*, 112 Idaho 239, 243-44 (Ct. App. 1986) (holding that “rehabilitation and health problems are factors to consider in a motion for reduction in a sentence”). Perhaps this is because a defendant’s rehabilitation will have such a strong impact on other objectives of criminal punishment. Through rehabilitation of the offender, the individual is deterred and society is protected from further bad acts.

Here, the incident to which Mr. Gomez pled guilty occurred more than 12 years ago. He has committed no new crimes since this incident and has owned of his own business for over a decade. He clearly can be rehabilitated.

Most notably, Mr. Gomez expressed remorse for his conduct and took responsibility for his acts. (PSI, pp.3-4; 7/23/12 Tr., p.1, Ls.17-19; 12/3/12 Tr., p.22,

¹⁴ Due to an acrimonious divorce and his subsequent deportation after being placed on probation, it is unlikely Mr. Gomez will be able to return to the United States, and it is unlikely that his ex-wife will take the children to visit their father in Mexico. (PSE, p.7.)

Ls.2-6.) Idaho recognizes that some leniency is required when a defendant expresses remorse for his conduct and accepts responsibility for his acts. *State v. Shideler*, 103 Idaho 593, 595 (1982); *State v. Alberts*, 121 Idaho 204, 209 (Ct. App. 1991). Mr. Gomez expressed his remorse and sadness numerous times over his treatment of S.B. (PSI, pp.3-4; PSE, p.2.)

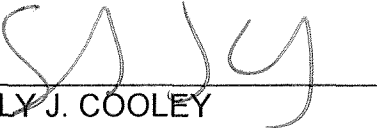
Mr. Gomez told S.B. that it broke his heart to hear her crying and that he was a big “son-of-a-gun” for the things he did to her. (PSI, p.4.) At sentencing, Mr. Gomez further apologized, saying “[a]nd mostly just I’m sorry. And I read her statement, and I’m sorry for all the damage that I did to you. I do. I never meant to. I never did.” (12/3/12 Tr., p.22, Ls.2-4.) See *State v. Shideler*, 103 Idaho 593, 594 (1982) (reducing sentence of first time offender who accepted responsibility for his acts and had the support of his family in his rehabilitation efforts); see also *State v. Carrasco*, 114 Idaho 348, 354-55 (Ct. App. 1988), *reversed on other grounds*, 117 Idaho 295 (1990) (reducing sentence of first time offender who accepted responsibility, expressed remorse, and had been of good character before the offense at issue); *State v. Alberts*, 121 Idaho 204, 209 (Ct. App. 1991) (noting that some leniency is required when the defendant has expressed “remorse for his conduct, his recognition of his problem, his willingness to accept treatment and other positive attributes of his character”).

Based upon the above mitigating factors, Mr. Gomez asserts that the district court abused its discretion by imposing an excessive sentence upon him, failing to take into consideration his family support, good employment history, remorse and acceptance of responsibility. Had it taken these factors into consideration, it would have imposed a less severe sentence.

CONCLUSION

Mr. Gomez respectfully requests that this Court reverse the district court's order denying his motion to withdraw his guilty plea and remand for further proceedings. Alternatively he requests that this Court reduce his sentence as it deems appropriate or remand the case back to the district court for a new sentencing hearing.

DATED this 12th day of November, 2013.



SALLY J. COOLEY
Deputy State Appellate Public Defender

CERTIFICATE OF MAILING

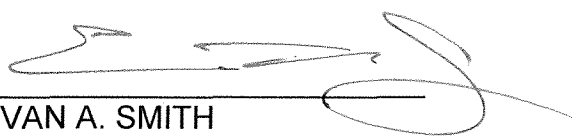
I HEREBY CERTIFY that on this 12th day of November, 2013, I served a true and correct copy of the foregoing APPELLANT'S BRIEF, by causing to be placed a copy thereof in the U.S. Mail, addressed to:

MOISES GOMEZ
INMATE #104939
E-MAILED BRIEF

DAVID C NYE
DISTRICT COURT JUDGE
E-MAILED BRIEF

RANDALL SCHULTHIES
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E-MAILED BRIEF

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