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State v. Trujillo Respondent's Brief Dckt. 41135

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IN THE SUPREME COURT OF THE STATE OF IDAHO

COPY

STATE OF IDAHO,)	
)	No. 41135
Plaintiff-Respondent,)	
)	Ada Co. Case No.
vs.)	CR-2012-3699
)	
ERNIE J. TRUJILLO,)	
)	
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

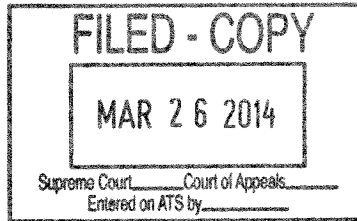
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TABLE OF CONTENTS

	<u>PAGE</u>
TABLE OF AUTHORITIES	ii
STATEMENT OF THE CASE	1
Nature Of The Case	1
Statement Of The Facts And Course Of The Proceedings	1
ISSUES.....	2
ARGUMENT	3
I. Trujillo Has Failed To Show That The District Court Abused Its Discretion In Weighing And Admitting Evidence Under Idaho Rule Of Evidence 403	3
A. Introduction.....	3
B. Standard Of Review.....	3
C. The Probative Value of Trujillo's Admission That He Was An Accessory To The Forgery Is Not Substantially Outweighed By Unfair Prejudice	4
II. Trujillo Has Failed To Establish An Abuse Of The Court's Sentencing Discretion	6
A. Introduction.....	6
B. Standard Of Review.....	6
C. The District Court Did Not Abuse Its Discretion By Imposing A Sentence Of 14 Years With Three Years Fixed Upon Trujillo's Conviction	7
CONCLUSION.....	8
CERTIFICATE OF SERVICE.....	9

TABLE OF AUTHORITIES

<u>CASES</u>	<u>PAGE</u>
<u>Parker v. Randolph</u> , 442 U.S. 62 (1979).....	5
<u>State v. Baker</u> , 136 Idaho 576, 38 P.3d 614 (2001).....	7
<u>State v. Enno</u> , 119 Idaho 392, 807 P.2d 610 (1991).....	4
<u>State v. Fordyce</u> , 151 Idaho 868, 264 P.3d 975 (Ct. App. 2011)	4
<u>State v. Johnson</u> , 145 Idaho 970, 188 P.2d 912 (2008)	6
<u>State v. Lundquist</u> , 134 Idaho 831, 11 P.3d 27 (2000)	7
<u>State v. Martin</u> , 118 Idaho 334, 796 P.2d 1007 (1990)	4
<u>State v. Meister</u> , 148 Idaho 236, 220 P.3d 1055 (2009)	4
<u>State v. Moore</u> , 131 Idaho 814, 965 P.2d 174 (1998).....	6
<u>State v. Oliver</u> , 144 Idaho 722, 170 P.3d 387 (2007).....	7
<u>State v. Raudebaugh</u> , 124 Idaho 758, 864 P.2d 596 (1993).....	3
<u>State v. Rhoades</u> , 119 Idaho 594, 809 P.2d 455 (1991).....	3
<u>State v. Ruiz</u> , 150 Idaho 469, 248 P.3d 720 (2010).....	4
<u>State v. Toohill</u> , 103 Idaho 565, 650 P.2d 707 (Ct. App. 1982).....	7
<u>State v. Wersland</u> , 125 Idaho 499, 873 P.2d 144 (1994).....	6
<u>State v. Wolfe</u> , 99 Idaho 382, 582 P.2d 728 (1978).....	7
 <u>STATUTES</u>	
I.C. § 19-1430.....	6
 <u>RULES</u>	
I.R.E. 401.....	5
I.R.E. 403.....	3, 4, 5, 6

STATEMENT OF THE CASE

Nature Of The Case

Ernest James Trujillo appeals from his conviction of forgery with an enhancement. On appeal, he argues that the district court committed evidentiary error by reconsidering an earlier decision and permitting the state to present to the jury Trujillo's recorded admission, and that the district court abused its discretion by sentencing him to 14 years with three years fixed upon his conviction.

Statement Of The Facts And Course Of The Proceedings

On January 17, 2012, Trujillo entered a Moneytree store and passed a \$375 check, which had been forged by an accomplice. (Tr., p.125, Ls.13-25; p.135, Ls.13-24; p.140, Ls.9-17; p.144, L.15 – p.145, L.18; p.151, L.12 – p.153, L.21.) The state charged Trujillo with forgery (R., pp.28-29), and later charged a persistent violator enhancement (R., pp.36-38). Pending trial on the forgery, Trujillo was charged with new crimes in another case. (R., p.48.) The parties attempted to resolve all pending charges in a global plea agreement. (R., pp.54-64.) However, the district court was uncomfortable accepting Trujillo's plea after he appeared to claim innocence in his PSI, and the plea agreement unraveled. (R., pp.65-66.)

The case ultimately went to trial. (R., pp.88-95.) Following the trial, the jury returned guilty verdicts on both the forgery charge and the enhancement. (R., pp.116, 123.) The district court sentenced Trujillo to 14 years imprisonment with three years fixed. (R., pp.131-34.) Trujillo filed a timely Rule 35 motion (R., p.139), which was denied (R., pp.143-45). Trujillo filed a timely notice of appeal from the judgment of conviction. (R., pp.147-49.)

ISSUES

Trujillo states the issues on appeal as:

1. Did the district court abuse its discretion when it admitted into evidence the previously-excluded statement from one of Mr. Trujillo's recorded jail telephone calls?
2. Did the district court abuse its discretion when it imposed a unified sentence of fourteen years, with three years fixed, upon Mr. Trujillo following his conviction for felony forgery?

(Appellant's brief, p.7.)

The state rephrases the issues as:

1. Has Trujillo failed to establish an abuse of discretion in the district court's weighing the probative value of Trujillo's recorded admission of guilt against its potential for unfair prejudice and admitting that recording into evidence?
2. Has Trujillo failed to establish an abuse of the district court's discretion in sentencing him to 14 years with three years fixed following his conviction for forgery with a persistent violator enhancement?

ARGUMENT

I.

Trujillo Has Failed To Show That The District Court Abused Its Discretion In Weighing And Admitting Evidence Under Idaho Rule Of Evidence 403

A. Introduction

In a phone call from the jail, Trujillo discussed his pending forgery case and stated, among other things, "I'm thinking I might get probation for being accessory to it." (State's Ex. 2.) The state wanted to enter this statement at trial as an admission of guilt. (R., p.84.) The district court was initially hesitant and excluded the recording. (Id.) However, after listening to the admission in the context of the entire recording, the district court reconsidered its ruling, weighed the evidence under Rule 403, and reversed its earlier decision. (Tr., p.6, L.3 – p.7, L.8.)

On appeal, Trujillo argues that the district court abused its discretion by reversing its prior ruling and admitting the recording of Trujillo's admission of guilt. (Appellant's brief, pp.8-11.) Application of the correct legal standards to this case, however, shows no abuse of the district court's discretion.

B. Standard Of Review

The relevancy of evidence is an issue of law subject to free review. State v. Raudebaugh, 124 Idaho 758, 764, 864 P.2d 596, 602 (1993). Once relevance has been established, the district court's determination that the evidence's probative value is not outweighed by unfair prejudice is reviewed for an abuse of discretion. State v. Rhoades, 119 Idaho 594, 603, 809 P.2d 455, 464 (1991).

C. The Probative Value of Trujillo's Admission That He Was An Accessory To The Forgery Is Not Substantially Outweighed By Unfair Prejudice

The Rules of Evidence generally govern the admissibility of all evidence in the State of Idaho. State v. Meister, 148 Idaho 236, 240, 220 P.3d 1055, 1060 (2009). Rule 403 provides that relevant evidence may be excluded if, in the district court's discretion, the danger of unfair prejudice substantially outweighs the probative value of the evidence. State v. Ruiz, 150 Idaho 469, 471, 248 P.3d 720, 722 (2010); State v. Fordyce, 151 Idaho 868, 870, 264 P.3d 975, 977 (Ct. App. 2011). "Evidence is not unfairly prejudicial simply because it is damaging to a defendant's case. Evidence is unfairly prejudicial when it suggests decision on an improper basis." Fordyce, 151 Idaho at 870, 264 P.3d at 977. "Under the rule, the evidence is only excluded if the probative value is *substantially* outweighed by the danger of unfair prejudice. The rule suggests a strong preference for admissibility of relevant evidence." State v. Martin, 118 Idaho 334, 340 n.3, 796 P.2d 1007, 1013 n.3 (1990) (emphasis in original). Absent a clear abuse of discretion in weighing potential prejudice against relevance, a district court's determination under Rule 403 will not be disturbed on appeal. State v. Enno, 119 Idaho 392, 406, 807 P.2d 610, 624 (1991).

The record demonstrates that the district court properly exercised its discretion in weighing the probative value of evidence of Trujillo's admission of guilt against its potential for unfair prejudice. The district court, at the state's request, listened to Trujillo's admission that he was an accessory to the forgery in the context of the entire recording. (Tr., p.6, Ls.3-10.) Taken in context, it became clear to the district court that Trujillo knew that an unidentified woman placed his name on a forged check and that he passed that check. (Tr., p.6, Ls.10-20.) The district court recognized that Trujillo's

admission was probative and found that it was not substantially outweighed by any potential for unfair prejudice. (Tr., p.6, Ls.21-24.) The district court therefore reversed its prior ruling and admitted Trujillo's admission of guilt into evidence. (Tr., p.7, Ls.5-8.)

Trujillo's admission of guilt is obviously probative. As the United States Supreme Court has held, a defendant's admission of guilt is "probably the most probative and damaging evidence that can be admitted against him." Parker v. Randolph, 442 U.S. 62, 72 (1979). A confession of guilt is a proper basis on which to premise a finding of guilt. Trujillo's admission of guilt, therefore, is not substantially outweighed by unfair prejudice. The district court properly applied Rule 403 in weighing the evidence.

On appeal, Trujillo argues that his admission was merely marginally relevant because Trujillo's acknowledgement that he was an accessory to the crime might be interpreted differently than an outright admission of guilt. (Appellant's brief, pp.9-11.) Whether Trujillo's statement, especially in context, can be taken as anything other than an admission of guilt is an issue for the jury to determine; it is not an issue of relevance or admissibility. Trujillo's statement has the tendency of making the fact of his guilt "more probable than it would be without the evidence." See I.R.E. 401. Indeed, as indicated by the Supreme Court above, such a confession is likely the most probative evidence of guilt which could be admitted. Parker, 442 U.S. at 72.

Trujillo also argues that admitting his recorded confession that he was an accessory to the crime might lead to "confusion of the issues," apparently because Trujillo seemed confused about the legal distinction between principals and accessories to crimes. (Appellant's brief, p.10.) Whether Trujillo thought he was the principal or the accessory, however, was not the relevant issue for the jury to decide. The relevant

issue was whether or not Trujillo was guilty of forgery. As Trujillo acknowledges in his appellant's brief, Idaho has abolished the legal distinction between principals and accessories. I.C. § 19-1430; State v. Johnson, 145 Idaho 970, 973, 188 P.2d 912, 915 (2008). Whether Trujillo acted as a principal or an accessory in the forgery scheme, therefore, had no potential to confuse the relevant issue of Trujillo's guilt.

The district court properly weighed Trujillo's highly probative admission of guilt against its minimal potential for unfair prejudice under Rule 403 and properly admitted the recording. Trujillo has failed to establish any abuse of the district court's exercise of discretion under Rule 403. The district court's ruling should be affirmed.

II.

Trujillo Has Failed To Establish An Abuse Of The Court's Sentencing Discretion

A. Introduction

Trujillo argues that, in light of allegedly mitigating factors, the district court abused its discretion by imposing a sentence of 14 years with three years fixed on his conviction for forgery with a persistent violator enhancement. (Appellant's brief, pp.11-15.) Trujillo has failed to establish an abuse of the district court's sentencing discretion.

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. The District Court Did Not Abuse Its Discretion By Imposing A Sentence Of 14 Years With Three Years Fixed Upon Trujillo's Conviction

Where a sentence is within statutory limits, an appellant is required to establish that the sentence is a clear abuse of discretion. State v. Baker, 136 Idaho 576, 577, 38 P.3d 614, 615 (2001) (citing State v. Lundquist, 134 Idaho 831, 11 P.3d 27 (2000)). To carry this burden, Trujillo must show that his sentence is excessive under any reasonable view of the facts. Baker, 136 Idaho at 577, 38 P.3d at 615. A sentence is reasonable if appropriate to achieve the primary objective of protecting society, and any or all of the related sentencing goals of deterrence, rehabilitation, or retribution. State v. Wolfe, 99 Idaho 382, 384, 582 P.2d 728, 730 (1978). The Court reviews the whole sentence on appeal and presumes that the fixed portion of the sentence will be the defendant's probable term of confinement. State v. Oliver, 144 Idaho 722, 726, 170 P.3d 387, 391 (2007). In deference to the trial judge, the Court will not substitute its view of a reasonable sentence where reasonable minds might differ. State v. Toohill, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982).

Considering the nature of Trujillo's crime, and his criminal history, his sentence is not excessive. In this case, the district court sentenced Trujillo on what appear to be his seventh and eighth felonies (see R., pp.37-38; PSI, pp.5-7, 109-11) for, respectively, possession of methamphetamine and forgery with a persistent violator enhancement. Through his three decade criminal career, Trujillo has also been convicted of numerous misdemeanors. (Id.) His convictions include violent crimes such as domestic battery; theft crimes such as forgery and burglary; drug-related crimes such as possession of methamphetamine, marijuana, and paraphernalia; and numerous traffic and probation violations. (Id.)


Despite Trujillo's troubling criminal history, and while noting that probation was not an option in his case (Tr., p.326, L.25 – p.327, L.6), the district court did not give up on Trujillo's potential for rehabilitation. Instead it crafted a sentence that would give Trujillo enough time and incentive to work hard and take advantage of programming. (Tr., p.325, Ls.3-21.) The district court's sentence thus serves the sentencing interests of protecting society from Trujillo's criminality by placing him in confinement, while also balancing those interests with the hope for Trujillo's eventual rehabilitation.

On appeal, Trujillo asserts that his substance abuse problems, difficult childhood, and lack of educational attainment should have weighed more heavily in the district court's analysis. (Appellant's brief, pp.12-15.) The district court in fact addressed Trujillo's troubled youth and his substance dependency in its sentencing. (Tr., p.324, L.23 – p.325, L.13.) However, those circumstances ultimately do not diminish the serious nature of Trujillo's current crimes or the risk of continuing criminal conduct he presents to society when not in confinement. Because Trujillo has failed to show that his sentence is excessive, he has failed to establish an abuse of the district court's discretion. His sentence should be affirmed.

CONCLUSION

The state respectfully requests that this Court affirm Trujillo's conviction and sentence.

DATED this 26th day of March, 2014.



RUSSELL J. SPENCER
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 26th day of March, 2014, served a true and correct copy of the attached BRIEF OF RESPONDENT by causing a copy addressed to:

BEN P. McGREEVY
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.



RUSSELL J. SPENCER
Deputy Attorney General

RJS/pm