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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	
	)	NO. 41888
Plaintiff-Respondent,	)	
	)	LATAH COUNTY NO. CR 2013-1801
v.	)	
	)	
BRIAN KENNETH TAYLOR,	)	APPELLANT'S BRIEF
	)	
Defendant-Appellant.	)	

COPY

BRIEF OF APPELLANT

APPEAL FROM THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LATAH

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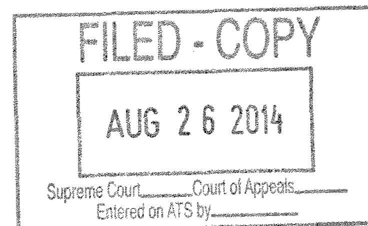

ATTORNEY FOR PLAINTIFF-RESPONDENT

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STATEMENT OF THE CASE

Nature of the Case

Brian Taylor conditionally pled guilty to four counts of lewd conduct, four counts of sexual abuse of child, and one count of exploitation of a child, preserving his right to challenge the district court's denial of his motion to suppress evidence. Mr. Taylor asserts that his statements, which lead officers to discover digital camera memory cards containing incriminating evidence, were the involuntary product of police coercion; therefore, the district court erred in denying his motion to suppress. Alternatively, Mr. Taylor asserts that the district court abused its discretion by imposing a total unified sentence of life, with 25 years fixed, in light of the relevant mitigating information present in his case.

Statement of the Facts and Course of Proceedings

On May 21, 2013, 9-year-old S.A.R. disclosed to her school guidance counselor that her neighbor, Brian Taylor, had sexually abused her, had taken nude pictures of her, and had shown her pornographic pictures of herself and other children. (R., pp.28-31.) Based upon this information, police officers applied for and were granted a search warrant of Mr. Taylor's residence that same day. (Tr., pp.23-38.) The search of Mr. Taylor's trailer revealed a large amount of adult pornography and sex toys that the police did not seize as there was no information that such evidence would be relevant to their investigation. (R., pp.39-43.) In the days following that first search, S.A.R. disclosed that Mr. Taylor had penetrated her with a sex toy, and had shown her movies of "'naked boys and girls' … 'doing the same thing Brian was doing to me,'" (R., pp.39-43.) Police officers sought a second warrant based on S.A.R.'s new disclosure and

their claim that, although they had found a digital camera during the first search, they did not believe it to be the camera that S.A.R. had described to them. (R., pp.39-43, 47.)

The second search warrant authorized officers to search for and seize the following list of items:

- Evidence of sexual activity including, without limitation, sexual devices, lubricants, condoms, and items that may contain bodily fluids associated with sexual activity.
- Images of adult pornography contained in magazines, DVD, and VHS format;
- Camera-capable devices;
- Indicia of residency in, or ownership or possession of, the premises and any of the above items.

(R., pp.80-81.) On June 10, 2013, a total of four Moscow Police Department officers went to Mr. Taylor's trailer to execute the second warrant. (*See* Exhibits A (affidavit if Sgt. Fager), B (affidavit of Det. Shields), and C (affidavit of Cpl.[1] Green))[2]. Mr. Taylor was at work when the officers arrived to serve the warrant; however, he agreed to be present while the warrant was executed and picked up his 5-year-old son, M.N., from daycare on the way back to his home. (Exhibit C (affidavit of Cpl. Green)).

Detective Shields found a manual for a digital camera that was not seized during the execution of the first search warrant, and which he believed was consistent with the camera described by S.A.R. (Exhibit B (affidavit of Det. Shields)). After reading

---

[1] Although Casey Green refers to himself as a "Patrol Corporal" in his affidavit, he is referred to as Detective Green in other portions of the record; therefore, other than in citations to his affidavit, he will be referred to as Detective Green in this Brief.

[2] These affidavits were filed with State's Memorandum in Opposition to Defendant's Motion to Suppress.

Mr. Taylor his *Miranda*[3] warnings and Mr. Taylor acknowledging that he remembered those warnings, the following exchange occurred:

> Detective Shields: Okay. Question I have: Where's this camera? This is not the camera I tested. Where's that camera?
>
> Brian Taylor: Uh –
>
> Detective Shields: If you help me out, man, this is going to go a lot faster than if you don't. If not, I will be back there all night. I will tear that room apart from one square inch to the other.
>
> Brian Taylor: Yeah.
>
> Detective Shields: All right. This is not going to go well. I'm going to find this camera. Where is it at?
>
> Brian Taylor: It is, um, in the same general area you found that stuff last in the bookshelf.
>
> Detective Shields: Okay. It's in the bookshelf? Okay. Where at in the bookshelf?
>
> Brian Taylor: Uh –
>
> Detective Shields: Where the – where the plants were last time?
>
> Brian Taylor: Yes.
>
> Detective Shields: Appreciate it. Thank you.

(R., pp.193-194.) The officers found the camera where Mr. Taylor said that it would be located but there was no memory card or batteries in the camera. (Exhibit B (affidavit of Det. Shields)). Detective Shields then asked Mr. Taylor where the memory card was

[3] *See Miranda v. Arizona*, 384 U.S. 436 (1966).

and Mr. Taylor told him that he does not have any memory cards for that camera. (R., p.195.)

At some point after Mr. Taylor was confronted by Detective Shields, Detective Green asked him if he would be comfortable talking with him to which Mr. Taylor replied "Um, not really." (R., p.196.) Mr. Taylor stated to Detective Green "anything I say can and will be used against me," and Detective Green responded by saying, "Yeah, that's – that's the auspice of why we're here, yes." *Id.* Mr. Taylor then asked, "So what does that mean exactly?" and Detective Green responded with "It means exactly what it means, Brian. You know, we're and officer of the law, and an officer of the Court, you know ... But I would like to speak to you, if it's okay with you" and Mr. Taylor responded "Okay." (R., pp.196-197.) Mr. Taylor then agreed that M.N. could go outside with another officer while he spoke with Detective Green. (R., p.197.)

Detective Green told Mr. Taylor that he knows he's "in a bad spot" but that they are trying to "close up the loose ends," he is concerned that things on the memory card will be made public and harm S.A.R., and he knows Mr. Taylor is a good father to M.N. and that he would not want S.A.R. to be harmed. (R., pp.198-205.) Mr. Taylor repeatedly said that the camera does not have a memory card and that no harmful images of S.A.R. could possibly be made public. *Id.* Detective Green then told Mr. Taylor that he was speaking to him "one man to another man" and told him that he could arrest him for methamphetamine possession[4] but he did not want to do that

---

[4] Methamphetamine was found in the trailer during the execution of the first warrant but Mr. Taylor was not arrested at that time. (*See* Exhibits A (affidavit if Sgt. Fager), B (affidavit of Det. Shields), and C (affidavit of Cpl. Green)).

because he wants Mr. Taylor to be there for M.N. (R., p.205.) Mr. Taylor then stated that he destroyed the memory card, threw it in the trash, and it should be in a landfill by then. (R., pp.205-207.)

Detective Green told Mr. Taylor that he had "too much respect for [him] right now to accept a lie from [him]" and Mr. Taylor asked if the judge would "look at that information." (R., pp.207-208.) Detective Green told Mr. Taylor that he possibly has an addiction to pornography and that taking responsibility for that is "an admirable thing to do," but that he was concerned about the images coming back to harm S.A.R. (R., pp.208-209.) Mr. Taylor answered "Of course" when Detective Green asked him if he wanted to protect S.A.R. (R., p.209.) Mr. Taylor then stated, "I'm going to be arrested, today not matter what, though" and Detective Green told him that it had not been decided at that point. (R., pp.209-210.) Mr. Taylor asked what would happen if the police did not believe his statement that "they have been destroyed," and Detective Green responded that he did not believe him and provided a hypothetical in which he arrested Mr. Taylor, M.N. was taken in to protective custody, and someone broke into the trailer and found the memory card. (R., pp.210-211.)

Mr. Taylor then disclosed that the evidence was in the trailer and, after he discussed how he could get help for his pornography addiction, he informed Detective Green that two memory cards were hidden in a bag of rice in his kitchen and the officers seized the cards. (R., pp.211-215.) The officers then returned to the police station and discovered the memory cards contained multiple images of child pornography including images Mr. Taylor engaged in sexual contact with S.A.R., M.N. and a 9-year-old boy,

R.R. (Exhibit B (affidavit of Det. Shields)). The officers returned to Mr. Taylor's residence and arrested him. *Id.*

The State filed an Amended Criminal Information charging Mr. Taylor with seven counts of sexual abuse of a child, seven counts of lewd conduct, seven counts of male rape, one count of rape, two counts of sexual exploitation of a child, and one count of possession of methamphetamine. (R., pp.163-173.) The various sex-crimes listed were alleged to have been committed against four separate victims. *Id.*

Mr. Taylor filed a Motion to Suppress the evidence obtained as a result of his interrogation occurring during the execution of the second search warrant on June 10, 2013, including statements he made, the memory cards found in the bag of rice, and any further evidence resulting from follow up investigations, and Mr. Taylor supported his motion with a memorandum in support and with a transcript of his contact with law enforcement during the service of the second search warrant. (R., pp.197-218.) Specifically, Mr. Taylor argued that he was "in custody" during the interrogation, and that his statements were not voluntarily given but were the product of unlawful police coercion in violation of his Fourteenth Amendment right to due process of law, or were otherwise obtained in violation of his right to silence protected by the Fifth Amendment. *Id.* Mr. Taylor argued,

> The circumstances of the interrogation were as follows: four policemen were in his home armed with a search warrant. Officer Shields had told the Defendant that if he did not divulge the location of a camera, they would stay all night and he would "tear that room apart from one square inch to the other." Although the Defendant then gave up the camera as demanded, police pressed for more damaging information, even though it was not specifically named on the search warrant. They were quite clear in their demands, and the Defendant had tried to express that he did not want to cooperate. However, he also had his five year old son there, and no one was there to care for the son. He obviously would

> not want the house torn up "from one square inch into the other" in front of his young son. Furthermore, the Defendant knew that he was going to be arrested that day, not matter what. Green tried to dissuade him from that conclusion, but the Defendant has the insight of a reasonable person – he knew he was going to be arrested.

(R., pp.184-185.) Mr. Taylor asserted that the "circumstances of the questioning were overbearing, and the Defendant responded as a result of the previous threat to 'tear up' his home." (R., p.186.) He asserted that his confession was made in response "to a threat, knowing he would be arrested and feeling protective of both his home and his son"; therefore, it his incriminating statements were coerced and involuntary. *Id.*

The State filed a memorandum opposing Mr. Taylor's motion to suppress and argued the following: Mr. Taylor failed to show that he was "in custody" for *Miranda* purposes; that even if he was in custody, he was informed of his *Miranda* rights multiple times before questioning; he did not unequivocally invoke his right to remain silent; sufficient time had elapsed between the execution of the first search warrant on May 21st, and the execution of the second search warrant on June 10th, that the officers could reinitiate questioning; and, under the totality of the circumstances, his statements were voluntary. (R., pp.240-265.) The court held a hearing on Mr. Taylor's motion to suppress and the parties submitted the issue for the court's consideration on the transcript of Mr. Taylor's interrogations by Detectives Shields and Green during the execution of the second search warrant, an audio recording of Detective Shields' interrogation of Mr. Taylor, and the affidavits of Sergeant Fager, Detective Shields, and Detective Green, but Mr. Taylor did not testify. (Tr. 10/30/13.)

The district court denied Mr. Taylor's motion to suppress through a written Opinion and Order on Defendant's Motion to Suppress. (R., pp.271-280.) The district

court found that there was no evidence showing that Mr. Taylor was uneducated or unintelligent, that the detention[5] was of any significant length, that the questioning was prolonged or repetitive, or that Mr. Taylor was deprived of sleep or food. (R., pp.277-278.) The district court recognized that Mr. Taylor argued that the police coerced an involuntary confession out of him by the fact that there were four officers present armed with a search warrant, that M.N. was in the home at the time, that Mr. Taylor was not free to leave, and that the officers told him "they would search every inch of [his] home if he did not tell them where the camera and memory card were located." (R., p.278.) The court then found as follows:

> While Defendant Taylor's facts are accurate, his inferences are flawed. The officers had a search warrant (a somewhat coercive instrument in its own right) that allowed them to enter Taylor's home and to thoroughly search for certain named items, including every inch of the home if necessary. Simply informing Taylor of the right they held pursuant to the search warrant, but giving him the option to avoid such an intrusive event, is not a threat. Even assuming some of the statements made by the interrogating officers were inaccurate or false, deceptive police tactics alone do not necessarily render a confession involuntary. Defendant Taylor has failed to direct the Court to any statements made by the interrogating officers that were so false or misleading that the statements overcame the Defendant's will.

(R., p.278 (footnote omitted).) The court further found that Mr. Taylor did not unequivocally evoke his right to remain silent and, therefore, officers were not required to discontinue questioning him.[6] (R., p.279.) The court concluded that Mr. Taylor's

[5] The district court that Mr. Taylor was "in custody" during the questioning that occurred during the execution of the second search warrant, and that a reasonable period of time had passed between the time the first search warrant was executed, where Mr. Taylor exercised his right to silence, and the time the second search warrant was executed, allowing the police to reinitiate questioning. (R., pp.275-277.) Mr. Taylor does not challenge either of these findings in this appeal.

[6] Mr. Taylor does not challenge this finding in this appeal.

confession about the location of the memory cards was voluntary and there was no violation of his constitutional rights. (R., p.279.)

Thereafter, Mr. Taylor entered a conditional guilty plea to four counts of lewd conduct, four counts of sexual abuse of a child, and one count of sexual exploitation of a child as charged in a Second Amended Information, preserving his right to appeal the denial of his motion to suppress. (R., pp.281-294; Tr. 11/13/13.) The district court sentenced Mr. Taylor to a total unified term of life, with 25 years fixed. (R., pp.336-340.) Mr. Taylor filed a timely Notice of Appeal. (R., pp.343-346.)

ISSUES

1. Did the district court err when it denied Mr. Taylor's motion to suppress?

2. Did the district court abuse its discretion by imposing upon Mr. Taylor a total unified sentence of life, with 25 years fixed, in light of the mitigating information?

ARGUMENT

I.

The District Court Erred When It Denied Mr. Taylor's Motion To Suppress

A. Introduction

The district court based its legal ruling that Mr. Taylor's incriminating statements were voluntary, upon the factual finding that the police officers were truthful when they told him they could tear his home apart to look for the memory card(s). This finding is clearly erroneous as, while the search warrant allowed officers to search for and seize "Camera-capable devices," the warrant did not allow for the search and seizure of memory cards or any other means of storing digital images. In light of the court's finding that officers actually did threaten to tear apart Mr. Taylor's apartment in a search of the memory card(s), Mr. Taylor's confession as to the location of the memory cards was the involuntary acquiescence to unlawful police coercion, and the district court erred in denying Mr. Taylor's motion to suppress.

B. Relevant Jurisprudence And Standard Of Review

The United States Supreme Court "has long held that certain interrogation techniques, either in isolation or as applied to the unique characteristics of a particular suspect, are so offensive to a civilized system of justice that they must be condemned under the Due Process Clause of the Fourteenth Amendment." *Miller v. Fenton*, 474 U.S. 104, 109 (1985) (citing *Brown v. Mississipi*, 297 U.S. 278 (1936)). Confessions that are secured through constitutionally invalid means are described as "involuntary." *Id.* (citing *Blackburn v. Alabama*, 361 U.S. 199, 207 (1960)). "The doctrine disallowing

the use of involuntary confessions ... is grounded in the Due Process Clause of the Fourteenth Amendment, and it applies to any confession that was the product of police coercion, either physical or psychological, or that was otherwise obtained by methods offensive to due process." *State v. Doe*, 130 Idaho 811, 814-815 (citing *Miller, supra*; *Oregon v. Elstad,* 470 U.S. 298, 304 (1985); *Haynes v. Washington,* 373 U.S. 503, 514–515 (1963)). "[C]oercion can be mental as well as physical, and that the blood of the accused is not the only hallmark of an unconstitutional inquisition." *Blackburn* 361 U.S. at 206 (citing *Chambers v. Florida*, 309 U.S. 227 (1940)).

The proper inquiry is to determine, from the totality of the circumstances, whether the incriminating statements were the product of the defendant's will being overborne by police coercion. *Arizona v. Fulminante*, 499 U.S. 279, 285-288 (1991). Factors courts should consider include, but are not limited to, whether *Miranda* warnings were given, the defendant's age, level of education and intelligence, the length of the detention, the repeated and prolonged nature of the questioning, and deprivation of food and sleep. *Schneckloth v. Bustamonte*, 412 U.S. 218, 226 (1973); *see also State v. Troy*, 124 Idaho 211, 214 (1993). Additionally, a single tactic such as the use or threatened use of violence can be, in and of itself, coercive and render a confession involuntary, regardless of the presence of other non-coercive factors. *See Brown v. State of Mississippi*, 297 U.S. 278 (1936); *Chambers v. Florida*, 309 U.S. 227 (1940).

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 which were supported by substantial evidence, but freely reviews the application of constitutional principles to the facts as found. *State v. Atkinson,* 128 Idaho

559, 561 (Ct. App. 1996). The ultimate question of whether a confession was involuntary is a legal question subject to *de novo* review. *Fulminante*, 499 U.S. at 287.

C. The District Court's Finding That The Officers Could Tear Up Mr. Taylor's Home In Order To Find The Memory Cards Is Clearly Erroneous

The district court recognized that Mr. Taylor asserted police overcame his will by the use of threats. (R., p.278.) The court recognized,

> Defendant Taylor argues there were four police officers in his home armed with a search warrant, Taylor's five-year-old son was present in the home, Taylor was not free to leave, **and the officers threatened him by stating they would search every inch of Taylor's home if he did not tell them where the camera and memory card were located.**

(R., p.278 (emphasis added).) The court found that these facts are accurate (R., p.278), and Mr. Taylor does not challenge these factual findings in this appeal. However, the court also found, "[t]he officers had a search warrant ... that allowed them to enter Taylor's home and to thoroughly search for certain named items, including every inch of the home if necessary." (R., p.278.) This particular factual finding is clearly erroneous.

The warrant authorized the officers to search for "camera-capable devices" but it did not authorize the search for memory cards or any other means of storing digital images. (R., p.80.) Memory cards are not a "camera-capable devices" – they have no ability to take a picture. In contrast, the first search warrant authorized the search and seizure of "any and all property used to **create**, receive, **store**, transmit images related to child pornography." (Tr. 10/30/13, p.22, L.24 – p.23, L.3.) Unlike the second warrant, the first warrant authorized the search and seizure of items that can "create" images, i.e., camera-capable devices, **and** items that can "store" images, i.e., memory cards.

Therefore, the court's factual finding that, on June 10, 2013, the officers had a warrant authorizing their ability to search the trailer for a memory card is clearly erroneous.

D. The Court's Legal Conclusion That The Officers Did Not Threaten Mr. Taylor Based Upon Their Claim That They Were Legally Authorized To Search For The Memory Cards Is Legally Incorrect

The Court found that, "[s]imply informing Taylor of the right they held pursuant to the search warrant, but giving him the option to avoid such an intrusive event, is not a threat." (R., p.278.) Due to the fact that the warrant did not authorize the search and seizure of memory cards, the district court's legal conclusion is incorrect.

Search warrants must specifically describe the place to be searched and the items to be seized in order to comply with the requirements of the Fourth Amendment. *Horton v. California*, 496 U.S. 128, 139 (1990) (citations omitted). "If the scope of the search exceeds that permitted by the terms of a validly issued warrant or the character of the relevant exception from the warrant requirement, the subsequent seizure is unconstitutional without more." *Id.* at 140. In the present case, the second search warrant authorized the search and seizure of "camera-capable devices," not memory cards. In the Fourth Amendment context, [w]hen a law enforcement officer claims authority to search a home under a warrant, he announces in effect that the occupant has no right to resist the search. The situation is instinct with coercion—albeit colorably lawful coercion. Where there is coercion there cannot be consent."[7] *Bumper v. N. Carolina*, 391 U.S. 543, 550 (1968).

[7] Mr. Taylor did not challenge the seizure of the memory cards, or his statement of where they were located, as a violation of his Fourth Amendment right to be free from unreasonable searches and seizures. Nevertheless, because the district court based its legal conclusion on the notion that the second search warrant made the officers' threats legally authorized, Fourth Amendment jurisprudence is relevant to the question of

The district court found that the officers told Mr. Taylor that they would search every inch of his home in order to find the memory card(s) and they did so under the color of a lawful warrant. Because the warrant itself did not authorize a search for the memory card, the officers did, in fact, threaten Mr. Taylor with the unlawful search of, and possible damage, to his home. Therefore, Mr. Taylor's "confession" as to the location of the memory cards was based upon the unlawful threats from officers.

E. Under The Totality Of The Circumstances, Mr. Taylor's Statements Informing The Officers Of The Location Of The Memory Cards Was The Product Of Police Coercion And, Therefore, Involuntary

Mr. Taylor was with his 5-year-old son in his home, a small trailer, with four officers present, one of whom threatened to "tear that room apart from one square inch to the other," if he did not cooperate. Although he was *Mirandized* and was informed that he did not have to answer the officers' questions, he was also told that failure to do so would result in he and his son bearing witness to the destruction of his home – a promise made under the powerful but false guise of judicial authority. Mr. Taylor asserts that, under the totality of the circumstances, his "confession" was coerced and, therefore, involuntary. Thus, the district court erred in denying his motion to suppress.

II.

The District Court Abused Its Discretion By Imposing Upon Mr. Taylor A Total Unified Sentence Of Life, With 25 Years Fixed, In Light Of The Mitigating Information

A. Introduction

During the sentencing hearing, the State requested that the district court imposed a fixed-life term, while counsel for Mr. Taylor requested that the court impose a unified

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whether, under the totality of the circumstances, Mr. Taylor's "confession" was involuntary.

term of 12 years, with 6 years fixed. (Tr. 2/4/14, p.69, Ls.5-10; 72, L.22 – p.73, L.7.) The district court imposed concurrent 10-year fixed terms for each of the four sexual abuse of a minor convictions, a consecutive 5-year fixed term for the sexual exploitation of a minor conviction, and unified terms of life, with 10 years fixed, on each of the lewd conduct convictions to run concurrently with each other but consecutive to the other charges. (R., pp.336-340; Tr. 2/4/14, p.91, L.23 – p.93, L.22.) Mr. Taylor asserts that the total unified term of life, with 25 years fixed, is excessive in light of the mitigating information that exists in his case.

B. The District Court Abused Its Discretion By Imposing Upon Mr. Taylor A Total Unified Sentence Of Life, With 25 Years Fixed, In Light Of The Mitigating Information

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. Taylor does not allege that his sentence exceeds the statutory maximum. Accordingly, in order to show an abuse of discretion, Mr. Taylor must show that in light of the governing criteria, the sentence was excessive considering any view of the facts. *Id.* (citing *State v. Broadhead*, 120 Idaho 141, 145 (1991), *overruled on other grounds by State v. Brown*, 121 Idaho 385 (1992)). 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.* (quoting *State v. Wolfe*, 99 Idaho 382, 384 (1978), *overruled on other grounds by State v. Coassolo,* 136 Idaho 138 (2001)).

Mr. Taylor's crimes were egregious. However, although he himself recognized that he could not fully comprehend the harm that he caused his victims, Mr. Taylor expressed his remorse for his actions noting that he was disgusted by what he had done, and was making attempts to better himself through studying the Bible. (Tr. 2/4/14, p.74, L.23 – p.83, L.7.) The psychosexual evaluator noted that Mr. Taylor was amenable to treatment, expressed a desire for treatment, and that his potential for recidivism could be reduced to a low level if he is able to successfully complete treatment and remain supervised until he turned 60.[8] (Psychosexual Eval, pp.10, 21, 22.) Idaho Courts recognize that remorse and a willingness for and amenability to treatment are mitigating factors that should be considered by the district court when imposing sentence. *See State v. Alberts*, 121 Idaho 204 (Ct. App. 1991); *State v. James*, 112 Idaho 239 (Ct. App. 1986). Mr. Taylor asserts that, in light of the above-mitigating factors, the district court abused its discretion by imposing an excessive sentence.

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[8] Mr. Taylor was 42 when at the time the Psychosexual Evaluation was completed. (Psychosexual Eval, p.1.)

CONCLUSION

Mr. Taylor respectfully requests that this Court vacate his judgment and commitment, reverse the order denying his motion to suppress, and remand his case to the district court. Alternatively, Mr. Taylor respectfully requests that this Court reduce his sentence as it deems appropriate.

DATED this 26th day of August, 2014.

JASON C. PINTLER
Deputy State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 26th day of August, 2014, 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:

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