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State v. Williams Respondent's Brief Dckt. 42652

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COPY

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	No. 42652
Plaintiff-Respondent,)	
)	Bingham Co. Case No.
vs.)	CR-2005-6796
)	
MICHAEL CHARLES WILLIAMS,)	
)	
Defendant-Appellant.)	
_____)	

BRIEF OF RESPONDENT

APPEAL FROM THE DISTRICT COURT OF THE SEVENTH JUDICIAL
DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE
COUNTY OF BINGHAM

HONORABLE DAVID C. NYE
District Judge

LAWRENCE G. WASDEN
Attorney General
State of Idaho

MICHAEL CHARLES WILLIAMS
IDOC # 81133
ISCC H Pod 115-A
PO Box 70010
Boise, ID 83707

PAUL R. PANTHER
Deputy Attorney General
Chief, Criminal Law Division

TED S. TOLLEFSON
Deputy Attorney General
Criminal Law Division
P.O. Box 83720
Boise, Idaho 83720-0010
(208) 334-4534

ATTORNEYS FOR
PLAINTIFF-RESPONDENT

PRO SE
DEFENDANT-APPELLANT

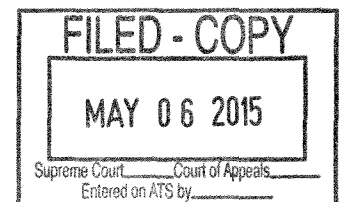


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STATEMENT OF THE CASE

Nature of the Case

Michael Williams appeals from the district court's decision dismissing his Rule 35 motion and denying his request to appoint counsel. The district court properly dismissed Williams' Rule 35 motion without appointing counsel because it was frivolous and without merit.

Statement of Facts and Course of Proceedings

The state charged Williams with first degree murder for the shooting death of Chris Adams. (R., p. 37.) The charge included a deadly weapon enhancement. (Id. (citing I.C. § 19-2520).) A jury found Williams guilty of Voluntary Manslaughter with the deadly weapon enhancement. (Id; see also Appellant's brief, p. 1.) The district court sentenced Williams to 15 years fixed for the Voluntary Manslaughter Conviction, and added 10 years fixed plus 5 years indeterminate for the deadly weapon enhancement resulting in a total unified sentence of 30 years with 25 years fixed. (R., p. 37.)

Williams filed a Motion for Reconsideration of his sentence under Rule 35, which the district court denied. (R., p. 38; see also Appellant's brief, p. 2.) Williams' judgment and sentence were affirmed on appeal. (Id.) While his direct appeal was pending, Williams filed a petition for post-conviction relief, which was denied. (See Appellant's brief, p. 2.) The denial was affirmed on appeal. (Id.)

Williams then filed this Rule 35 motion alleging that his sentence was illegal. (R., pp. 8-10.) Williams argued the district court erred in calling his sentence for the deadly weapon enhancement a "consecutive" sentence to his

manslaughter sentence, instead of calling it an “extension” of the manslaughter sentence. (R., p. 9.)

Williams also filed a motion requesting the district court appoint counsel. (R., p. 17.) The district court filed notice that Williams was still represented by counsel, Mr. Peterson. (R., pp. 18-20.) Mr. Peterson moved to withdraw, and after a hearing, the district court granted his motion to withdraw. (R., pp. 25, 27.)

The district court then entered a decision denying Williams’ Rule 35 Motion and his request for counsel. (R., pp. 37-44.) The district court “carefully reviewed the file and determined that the Motion to Correct an Illegal Sentence is without merit.” (R., p. 39.) Williams timely appealed. (R., pp. 45-48.)

ISSUES

Williams states the issues on appeal as:

A. WHETHER THE DISTRICT COURT ERRED IN SUMMARILY DISMISSING THE MOTION IN THESE MATTERS, ABSENT APPOINTMENT OF COUNSEL AND A TELEPHONIC HEARING; THUS ABROGATING THE APPELLANT'S RIGHT TO DUE PROCESS AND EQUAL PROTECTION UNDER THE APPLICABLE PORTIONS OF THE IDAHO AND UNITED STATES CONSTITUTIONS?

B. IS IT AN ABRIDGEMENT OF WILLIAM'S DUE PROCESS AND EQUAL PROTECTION RIGHTS FOR THE DISTRICT COURT TO DISMISS A MOTION TO CORRECT AN ILLEGAL SENTENCE, ABSENT APPOINTMENT OF COUNSEL AND A HEARING, WHERE THE FIXED PORTION OF THAT SENTENCE EXCEEDS THE MAXIMUM TERM ALLOWABLE UNDER **IDAHO CODE 19-2520** AND CONTRARY TO **IDAHO CODE 18-308**, COLLECTIVELY: [sic]

(Appellant's brief, p. 3.)

The state rephrases the issues as:

1. Has Williams failed to show the district court erred when it denied his motion to correct illegal sentence?
2. Has Williams failed to show the district court abused its discretion when it denied his request for appointment of counsel because his Rule 35 motion was frivolous?

ARGUMENT

I.

The District Court Did Not Err When It Denied Williams' Rule 35 Motion

A. Introduction

Williams argues that the district court's use of the word "consecutive" renders his sentence for Voluntary Manslaughter with a deadly weapon enhancement illegal. (Appellant's brief, pp. 7-8.) Williams is incorrect. The maximum sentence for Voluntary Manslaughter with a deadly weapon enhancement is 30 years. See I.C. §§ 18-4007(1), 19-2520. The district court sentenced Williams to a total unified sentence of 30 years with 25 years fixed. (R., p. 37.) Under Idaho precedent, the district court's use of the word "consecutive" when referring to the deadly weapon enhancement does not render the sentence illegal. See e.g. State v. Alsanea, 138 Idaho 733, 745, 69 P.3d 153, 165 (Ct. App. 2003); State v. Camarillo, 116 Idaho 413, 414, 775 P. 2d 1255, 1256 (Ct. App. 1989). The district court properly denied Williams' Rule 35 Motion.

B. Standard Of Review

The legality of a sentence is question of law over which the appellate court exercises free review. Alsanea, 138 Idaho at 745, 69 P.3d at 165 (citing State v. Lee, 116 Idaho 515, 516, 777 P.2d 737, 738 (Ct. App. 1989)).

C. The District Court Properly Applied Binding Precedent When It Denied Williams' Rule 35 Motion

The district court noted that a deadly weapon enhancement is more properly characterized as a "sentence enchantment" instead of a separate sentence. (R., p. 39.) However, the district court held that "case law is very clear that linguistic error or terminological misapplication does not constitute an illegal sentence under Rule 35." (R., p. 39 (citing Camarillo, 116 Idaho at 414, 775 P. 2d at 1256).)

On appeal, Williams repeats his argument that the district court's sentence was illegal because the "sentencing judge has described the enhancement as 'consecutive' to the underlying sentence[.]" (Appellant's brief, p. 7.) Williams argues that the sentencing judge violated the "very essence of the concerns expressed in State v. Camarillo, that such language may connote the existence of two separate sentences." (Id. (internal citation omitted).) Williams' argument ignores the holding of Camarillo. Camarillo is directly on point and supports the district court's denial of Williams' Rule 35 Motion.

The district court sentenced Camarillo to a 20 year indeterminate sentence for second degree murder enhanced by an additional indeterminate period of ten years for using a firearm during the commission of a crime. Camarillo, 116 Idaho at 413, 775 P.2d at 1255. Camarillo filed a Rule 35 Motion claiming his sentence was illegal because the district court characterized the ten-year enhancement as a "consecutive" sentence. Id. The district court denied Camarillo's motion. Id. The Court of Appeals held that while it disapproved of the terminology utilized by the district court, the terminology did not render the

sentence illegal and affirmed the district court. Id. at 413-414, 775 P. 2d at 1255-1256. “Accordingly, we have held that the mere choice of an inappropriate word does not give rise to Rule 35 relief, absent a showing that it has caused the enhanced sentence to be administered improperly.” Id. at 414, 775 P. 2d at 1256; see also Alsanea, 138 Idaho at 745, 69 P.3d at 165 (sentence was not illegal where district court characterized a weapons enhancement as “consecutive” to underlying sentence).

Williams did not show that the district court’s mere choice of an inappropriate word caused his enhanced sentence to be administered improperly. (See R., pp. 8-10; and Appellant’s brief, pp. 1-7.) Voluntary Manslaughter is punishable by a maximum sentence of fifteen years. I.C. § 18-4007(1). Use of a deadly weapon increases the maximum sentence by fifteen years. I.C. §19-2520. The district court sentenced Williams to a total unified sentence of 30 years with 25 years fixed. (R., p. 37.) William failed to show how the sentencing judge’s construction of his sentence illegally prejudiced him in any way. (R., p. 41.) The district court’s sentence was within the statutory maximums and the sentence was not illegal. The district court properly dismissed Williams’ Rule 35 Motion without a hearing.

II.

Williams Failed To Show The District Court Abused Its Discretion When It Denied His Request For Counsel

A. Introduction

The district court found Williams' Rule 35 Motion frivolous and denied his request for counsel. (R., pp. 41-42.) Williams failed to show the district court abused its discretion.

B. Standard Of Review

A criminal defendant is entitled to counsel at all stages of a criminal case unless a court determines the proceeding is not one that a reasonable person with adequate means would be willing to bring at his own expense and is therefore a frivolous proceeding. I.C. § 19-852(2)(c); see also State v. Wade, 125 Idaho 522, 523-24, 873 P.2d 167, 168-69 (Ct. App.1994). The decision to appoint counsel in a post-judgment proceeding lies within the discretion of the district court. See I.C. § 19-852(2)(c). Thus, on appeal, the appellate court reviews the district court's decision under an abuse of discretion standard. See Cowger v. State, 132 Idaho 681, 683-84, 978 P.2d 241, 243-44 (Ct. App. 1999).

C. The District Court Did Not Abuse Its Discretion When It Determined Williams' Rule 35 Motion Was Frivolous And Denied His Request For Appointment Of Counsel

Williams argues that the district court should have appointed counsel and should have set some sort of hearing. (See Appellant's Brief, pp. 5-7.) However, Williams failed to articulate what he would have presented at this

“hearing” nor did he explain how the district court erred when it denied his request for counsel. (Id.)

The district court held that while defendants have a right to counsel, that right is tempered by the discretion of the trial court. (R., p. 42 (citing Wade, 125 Idaho at 523-524, 873 P. 2d at 168-69).) The district court reviewed Williams’ Rule 35 Motion and held that it was without merit and he was not entitled to appointment of counsel.¹ (Id.) The district court held:

As discussed above in the previous section, his contention that the sentence imposed on him is illegal is without merit. That sentence was imposed pursuant to statutory guidelines, and there is nothing even potentially illegal about it. Appointing counsel to help Williams flesh out or develop this line of reasoning would only serve to waste time and resources.


(Id.) On appeal Williams failed to show that his Rule 35 Motion was not frivolous and failed to show the district court abused its discretion when it denied his request for counsel and hearing. (See Appellant’s brief, pp. 1-7.)

¹ The district court denied Williams’ request for counsel at the same time it dismissed his Rule 35 motion. (R., pp. 37-43.) To the extent the district court should have first denied Williams’ request for counsel before denying his Rule 35 Motion, such error is harmless because the motion was frivolous. See Wade, 125 Idaho at 525-526, 873 P. 2d at 170-171.

CONCLUSION

The state respectfully requests this Court affirm the decisions of the district court.

DATED this 6th day of May 2015.




TED S. TOLLEFSON
Deputy Attorney General

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 6th day of May 2015, I caused two true and correct copies of the foregoing BRIEF OF RESPONDENT to be placed in the United States mail, postage prepaid, addressed to:

MICHAEL C. WILLIAMS #81133
I.S.C.C. H POD 115-A
POST OFFICE BOX 70010
BOISE, IDAHO 83707



TED S. TOLLEFSON
Deputy Attorney General

TST/vr