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State v. Woods Respondent's Brief Dckt. 42837

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 42837
Plaintiff-Respondent,)	
)	Boundary County Case No.
v.)	CR-2014-399
)	
WILLIAM VIRGIL WOODS,)	
)	RESPONDENT'S BRIEF
Defendant-Appellant.)	
_____)	

Issue

Has Woods failed to establish that the district court abused its discretion by relinquishing jurisdiction?

Woods Has Failed To Establish That The District Court Abused Its Sentencing Discretion

Woods pled guilty to possession of methamphetamine and possession of heroin and the district court imposed consecutive unified sentences of five years, with one and one-half years fixed, and retained jurisdiction. (R., pp.97-99, 115-19.) Following the period of retained jurisdiction, the district court relinquished jurisdiction. (R., pp.127-30.)

Woods filed a timely notice of appeal. (R., pp.135-37.) He also filed a timely Rule 35 motion for reduction of his sentences, which the district court granted, ordering that Woods' sentences run concurrently rather than consecutively. (R., pp.131-34, 142-46.)

Woods asserts that the district court abused its discretion by relinquishing jurisdiction in light of his claim that he did not threaten another offender as stated in the DOR he received for assault, and because he "was making progress in his programming" during his rider. (Appellant's brief, pp.2-4; see PSI, p.38.¹) Woods has failed to establish an abuse of discretion.

"Probation is a matter left to the sound discretion of the court." I.C. § 19-2601(4). The decision to relinquish jurisdiction is a matter within the sound discretion of the trial court and will not be overturned on appeal absent an abuse of that discretion. See State v. Hood, 102 Idaho 711, 712, 639 P.2d 9, 10 (1981); State v. Lee, 117 Idaho 203, 205-06, 786 P.2d 594, 596-97 (Ct. App. 1990). A court's decision to relinquish jurisdiction will not be deemed an abuse of discretion if the trial court has sufficient information to determine that a suspended sentence and probation would be inappropriate under I.C. § 19-2521. State v. Chapel, 107 Idaho 193, 194, 687 P.2d 583, 584 (Ct. App. 1984).

Woods has not shown that he was an appropriate candidate for probation. At the jurisdictional review hearing, the state addressed Woods' history of criminal offending and aggressive behavior, his abysmal conduct in the retained jurisdiction program, and

¹ PSI page numbers correspond with the page numbers of the electronic file "WOODS EXHIBITS.pdf."

the continuing risk he presents to the community. (Tr., p.53, L.22 – p.56, L.7 (Appendix A).) The district court subsequently set forth its reasons for relinquishing jurisdiction. (Tr., p.60, L.22 – p.62, L.2 (Appendix B).) The state submits that Woods has failed to establish an abuse of discretion, for reasons more fully set forth in the attached excerpts of the jurisdictional review hearing transcript, which the state adopts as its argument on appeal. (Appendices A and B.)

Conclusion

The state respectfully requests this Court to affirm the district court's order relinquishing jurisdiction.

DATED this 28th day of September, 2015.

/s/ _____
LORI A. FLEMING
Deputy Attorney General

VICTORIA RUTLEDGE
Paralegal

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 28th day of September, 2015, served a true and correct copy of the attached RESPONDENT'S BRIEF by emailing an electronic copy to:

JUSTIN M. CURTIS
DEPUTY STATE APPELLATE PUBLIC DEFENDER

at the following email address: briefs@sapd.state.id.us.

/s/ _____
LORI A. FLEMING
Deputy Attorney General

APPENDIX A

1 got a lot out of it.

2 Q. Right.

3 A. I was enjoying it. I was enjoying the change
4 I was making. And I don't understand why they would
5 flop me over that, over something so small. I mean it
6 -- you know it really messed with me because I was
7 doin' good. I was gettin' a lot out of it.

8 Q. Okay. And that's your -- the whole thing
9 that happened in the shower.

10 A. That's all that happened.

11 Q. Okay.

12 MS. WOODS: I have no further questions,
13 Judge.

14 THE COURT: Mr. Hull.

15 MR. HULL: No questions.

16 THE COURT: You can step down. Thank you.

17 Mr. Hull -- Ms. Woods, that's all you wanted to
18 present; am I correct?

19 MS. WOODS: Yes. That's correct, Judge.

20 THE COURT: Okay. Mr. Hull, comments,
21 recommendations.

22 MR. HULL: Your Honor, when he was originally
23 before the Court on October -- excuse me, August 21st,
24 2004 (sic), the State had recommended a prison sentence
25 to the Court and the Court retained jurisdiction given

1 -- even given that he's had I think six prior felonies,
2 including these felonies he pled to here; six or seven.

3 To relligate an event that took place in the
4 retain jurisdiction unit, whichever one he was in, is
5 difficult at best in this case here because, No. 1, we
6 can't flush this out because we don't know all the
7 parties involved. We've got Josh, who was apparently
8 in the same pod or unit as Mr. Woods, and they've given
9 their position; however, the staff conducted an
10 investigation, came up with something else, and that
11 something else is, and this is what the larger concern
12 is, is Mr. Woods may not be able to understand how you
13 just get in a verbal argument, that happens all the
14 time, and why would they recommend being flopped.

15 Well, the reason that they give in the
16 jurisdictional review committee is after their
17 investigation, where they were able to get statements
18 from several different people, they came to the
19 conclusion that when this individual refused to leave,
20 Mr. Woods said, "Get out of the fucking shower and do
21 something about it or I'll fuck you up." Additionally
22 he said, "Say one more word and I will smash you."

23 Now, that's what they're concerned about is not
24 only the argument but the physical confirmation and the
25 apparent ability to go ahead and retaliate against

1 someone if he says something. It's that conduct that
2 the jurisdictional review committee was looking at that
3 made their recommendation for relinquishment. And that
4 is very consistent with Mr. Woods's demeanor and
5 attitude in his past criminal history and what's
6 reflected in his Presentence Report. And I know that
7 the Court doesn't like to relinquish jurisdictions in
8 these cases. I get that. And I'm sure that Mr. Woods
9 doesn't want to have the Court relinquish jurisdiction
10 because he wants a chance on probation. But the Court
11 was very clear you gotta get through the retain
12 jurisdiction program and then go through drug court.
13 And he can't get through that first step. He says it's
14 because it's a misunderstanding about the events that
15 took place there but the additional information that
16 this Court doesn't have and can't litigate is that it's
17 a threat and a potential follow-up of that and that's
18 what Mr. Woods isn't seeing is there's a physical
19 presence. And that's how he has typically ruled in the
20 past is by the threat of force and people have succumb
21 to that and -- and that's the danger that's in this
22 case. And I don't -- I mean it's not a case where -- I
23 don't think it's a case where you can go ahead and say,
24 'Well, I'm gonna retain jurisdiction again' because
25 he's just been in the retain jurisdiction program and

1 for you know a relatively short period of time also.
2 So there's no additional insight that we have in the
3 review report other than what Mr. Woods had testified
4 to about the other two incidences that he was given a
5 verbal warning -- verbal warning and a written warning
6 about but there's really not a whole lot of additional
7 insight from that standpoint.

8 THE COURT: Thank you. Ms. Woods.

9 MS. WOODS: Thank you, Your Honor.

10 As Mr. Woods stated, he's taken a lot of
11 classes in a fairly short period of time. I know
12 there's a chart that they've now since decided --
13 started to attach to the PSI report. He had completed
14 67 percent of his over-all progress and MTC subjects;
15 67 percent. So that is good showing. It also shows
16 that he hadn't completed his programming and that
17 there's still more to learn. And he could have maybe
18 dealt with this situation, handled it a little bit
19 better but I think he should be given credit for there
20 was no physical violence there. There was physical
21 violence in that shower at that time but Mr. Woods
22 didn't participate in that. So he was just basically
23 verbalizing how he felt and telling someone that
24 they're not supposed to be in that shower because
25 they're in the AA program -- or a.m. program. So I

APPENDIX B

1 think that's to his credit that he didn't participate
2 in that physical altercation there. And again, he only
3 completed 67 percent. That does sound like a lot but
4 he certainly still had a lot more time where he would
5 be given the tools to handle maybe the situation a
6 little bit better than he did. And so we're asking
7 either that he -- you put him on probation, let him
8 apply for drug court, or at least give him the chance
9 at another rider because he was being successful.

10 Again, this is his most serious write-up. And
11 we can't predict whether his thought processes have
12 been changing but it's possible, plus he needed more
13 treatment to help assist him with different ways to
14 handle situations, Judge.

15 THE COURT: Mr. Woods, do you want to make a
16 statement on your own behalf?

17 A. Yes, I do, Your Honor.

18 THE COURT: Go ahead.

19 A. All right. You've already got my side of the
20 story. I would also like to let you know that there
21 was -- everybody -- I got everybody in that shower to
22 write a statement. And I had more statements that I
23 got while I was sitting at the yard waiting to come up
24 but there was -- here's -- I mean they only let me
25 present two and they wouldn't let two of the people

1 different parts on here it says that -- like I had a --
2 it says that I'm making progress. And like my first
3 day of class it says right here that, you know, I was
4 up. And I'm up and I'm in it. I'm trying to get the
5 most out of my program. And then again right here it
6 says you know I did have -- I got into an argument with
7 one of my -- well, it wasn't an argument. I got -- I
8 got into a debate with one of my counselors and I felt
9 I was in the right and so yeah, it was a little bit of
10 a -- it was -- it turned into a little bit of an
11 argument, and it was brought up to the attention of my
12 teacher, Mr. Cornelius, and so we worked it out. I
13 mean I was -- I shouldn't have -- I shouldn't have
14 pursued it so far. I should have, you know, dropped
15 it. It was kind of something meaningless, the argument
16 about, but I realized I was in the wrong and I was --
17 it says I was making progress.

18 I'm making progress. I was up to step four. I
19 was doing step four. And I tried bringing my paperwork
20 down here, I tried bringing my MRT book. And I was --
21 had two more weeks of work that I had done and I wanted
22 to bring that to you so you could see exactly what I
23 was doing, exactly what I wrote, and you could tell the
24 progress I was making. When my stuff got lost on the
25 way up here. I don't have any of my property. I don't

1 because they got the guy who hit the dude and -- sorry,
2 the guy that hit him. And then another guy, who they
3 gave harassment to and ended up dropping his, you know
4 the sworn statement from the guy that said another guy
5 harassed him and threatened him. The same thing I
6 basically did. They gave him harassment but they found
7 him not guilty. And they wouldn't -- at first they
8 wouldn't let me have those guys write statements and
9 then I ended up getting statements from them and -- so
10 I have five people right here who wrote statements for
11 me saying I didn't ever make one threat to this guy.

12 And then I was with the RD manager, I asked for
13 them to call you. I don't know if you -- if she talked
14 to you directly but she felt it was wrong, that the
15 reason they gave me the DOR, and I am in the appeal
16 process right now and it's hopefully going to be
17 dropped. But, yeah, I mean it -- and through this --
18 through this whole thing, in one spot it says that --
19 let me see if I can find it. It says -- all right.
20 I've -- that I attempted to intimidate another offender
21 for being in the shower and it also says that,
22 "Mr. Woods's decision to threaten this offender
23 indicated that he is either unwilling or unable to
24 change his behavior at this time." But all through my
25 C notes on two different -- on two different-- two

1 know what happened to it. And also two statements that
2 I had, that's, oh, Hernandez and Matt Whitman who was
3 in the shower and so it's the little guy who -- and I
4 ended up getting into confrontation. And so yeah, I
5 mean I don't -- I don't really understand it. I don't
6 understand why when I was doing so good and I was at
7 where I was at why they would flop me over that.

8 I got -- I got kind of a crummy history and I
9 was giving it a lot. I was giving this program a lot
10 and I was learning a lot. And if you want, I can tell
11 you everything I was learning. I mean -- and I was
12 realizing I was giving this program my all and I feel
13 defeated. I feel, you know, and I don't know -- I
14 don't really know how I felt. I feel you know -- I
15 feel taken advantage of. I feel I'm a little -- I'm a
16 little -- I'm a little angry at the fact that they
17 flopped me over this, something small, and I was
18 gettin' so much and giving so much of myself to this
19 program.

20 That's really all I'd like to say.

21 THE COURT: Okay. All right. Have a seat.

22 Mr. Woods, I'm sure you do feel very
23 frustrated; however, you know the problem is we've got
24 one person here that's making a statement but there was
25 an investigation and this is what the conclusion of it

1 was reached. I can't relitigate that. I don't have
 2 all those people here today. These programs, they
 3 can't have anyone in them that they feel is a risk for
 4 violence because you've got a whole bunch of men in a
 5 group situation and absolutely isn't allowed. I mean
 6 I've seen people that they do violations for things,
 7 the one I joke about is somebody who was making the
 8 pancakes too big. But I mean they -- every single
 9 thing. It's how you make your bed, how you do those
 10 kinds of things. And no -- minor violations, people
 11 can have a few of those. But if they -- the report is
 12 -- and I just have to take what this investigation
 13 showed is that you threatened somebody. And you do
 14 have a lot of anger issues, you have several -- I think
 15 you have five felony convictions. So given that,
 16 they've decided they will not allow you to stay in
 17 their program. They have to make sure everyone is safe
 18 and so here we are. And so I really -- when you -- you
 19 failed in that program, then I'm just -- the Court's
 20 recourse is to impose your sentence. You certainly can
 21 go through your appeal process. You have every right
 22 to do that. But this was a sentence that I imposed
 23 certainly over the State's objection. The State felt
 24 you needed to have that sentence imposed and
 25 unfortunately it does not appear that you are able to

1 work in a group setting and so I am going to impose
 2 your underlying sentence. You can proceed with your
 3 appeal process and go from there.
 4 **A. Your Honor, can I say something?**
 5 THE COURT: No.
 6 **A. Okay.**
 7 THE COURT: I'm not modifying your sentence
 8 at this point.
 9 **A. All right. Thank you, Ms. Buchanan. I'm**
 10 **sorry for ruining it.**
 11 THE COURT: I'm certainly sorry this
 12 happened. I hate to see someone that doesn't make it
 13 through their rider program.
 14 **A. I do apologize for messin' this chance up**
 15 **that you gave me.**

(HEARING CONCLUDED.)

1 CERTIFICATE
 2 STATE OF IDAHO)
 3) ss
 4 COUNTY OF BOUNDARY)
 5 I VALERIE E. LARSON, a certified Shorthand
 6 Reporter, do hereby certify:
 7 That the hearing of the above-entitled action
 8 was taken down by me in machine shorthand and
 9 thereafter reduced to typewritten form under my
 10 direction, and that the same was held before the
 11 Honorable BARBARA A. BUCHANAN, District Judge, in the
 12 Boundary County Courthouse, Bonners Ferry, Idaho.
 13 I further certify that the foregoing
 14 transcript, contained in pages 39 through 61, is a true
 15 and correct record of all on-the-record proceedings had
 16 thereat, to the best of my ability.
 17 I further certify that I am not an attorney for
 18 nor a relative of any said parties or otherwise
 19 interested in the action.
 20 IN WITNESS WHEREOF, I have hereunto set my hand
 21 this, the 7th day of April, 2015.
 22
 23 VALERIE E. LARSON, CSR, RDR, RMR
 24 Official Court Reporter, CSR #317
 25