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State v. Williams Respondent's Brief Dckt. 42955

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 42955
Plaintiff-Respondent,)	
)	Kootenai County Case No.
v.)	CR-2013-22588
)	
CHRISTOPHER RYAN WILLIAMS,)	
)	RESPONDENT'S BRIEF
Defendant-Appellant.)	
_____)	

Issue

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

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

Williams pled guilty to lewd conduct with a minor under 16 and the district court imposed a unified sentence of 10 years, with three years fixed, and retained jurisdiction. (R., pp.73-78.) Following the period of retained jurisdiction, the district court

relinquished jurisdiction. (R., pp.85-89.) Williams filed a notice of appeal timely from the district court's order relinquishing jurisdiction. (R., pp.92-95.)

Williams asserts that the district court abused its discretion by relinquishing jurisdiction in light of his justifications for his behavioral problems and his participation in programming during his rider. (Appellant's brief, pp.2-4.) Williams 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).

At the jurisdictional review hearing, the state addressed Williams' ongoing criminal conduct, his abysmal performance in the rider program, his failure to demonstrate adequate rehabilitative progress, the risk he presents to the community, and the recommendation for relinquishment in the APSI. (Tr., p.49, L.21 – p.51, L.12.) The district court subsequently set forth its reasons for relinquishing jurisdiction and ordering Williams' original sentence executed. (Tr., p.53, L.16 – p.55, L.7.) The state submits that Williams has failed to establish an abuse of discretion, for reasons more

fully set forth in the attached excerpt of the jurisdictional review hearing transcript, which the state adopts as its argument on appeal. (Appendix A.)

Conclusion

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

DATED this 20th day of October, 2015.

/s/ _____
LORI A. FLEMING
Deputy Attorney General

VICTORIA RUTLEDGE
Paralegal

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 20th day of October, 2015, served a true and correct copy of the attached RESPONDENT'S BRIEF by emailing an electronic copy to:

ERIC D. FREDERICKSEN
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 A. What I'm asking the Court today is to allow
 2 me to go back and either finish my rider or do a
 3 traditional rider, the 90 day, so I can actually do the
 4 New Directions and the MRT class. Completing the rider
 5 is actually a lot more -- is actually really important
 6 to me at this point in time. The New Directions and
 7 the MRT class actually go over past issues, especially
 8 with the past that I've had, and address the criminal
 9 behaviors and anger problems that I've had in the
 10 community and failed to address at NICI.

11 Q. Is there anything that I haven't asked you
 12 that you'd like the Court to know at this point, Chris?

13 A. No. There's nothing you haven't asked me. I
 14 mean, I put 110 percent into the sex offender part of
 15 the treatment. I completed all the assignments to the
 16 best of my ability. And I didn't have to redo any of
 17 them. I do kind of wish I had some of the assignments
 18 so I could talk about them or anything like that and
 19 actually the impact that it had on me in the sex
 20 offender part of the treatment. But -- and that part
 21 of the treatment actually had a really big impact on
 22 me. The fact that I failed to address behaviors that I
 23 had is one thing that I would like to address.

24 Q. And that's something you believe you can do
 25 through the New Directions or MRT --

1 the victim; correct?

2 A. Yes.

3 Q. And you knew that the judge said that you're
 4 not supposed to contact the victim; right?

5 A. Yes.

6 Q. As a matter of fact, that's an actual
 7 separate crime you committed when you contacted the
 8 victim; is that correct?

9 A. Yes. I understand.

10 Q. And you tried to engage in subterfuge by
 11 having other people contact the victim; is that
 12 correct?

13 A. Yes.

14 Q. Now, you also threatened the well-being of a
 15 staff member while on the rider; correct?

16 A. Yes.

17 Q. And you did not take initial responsibility
 18 for that action; is that correct?

19 A. No, I did not.

20 Q. As a matter of fact, you lied when you were
 21 first approached about that; is that correct?

22 A. Yes.

23 Q. And today you said it was merely a joke, a
 24 trifle, nothing serious. Is that your position?

25 A. Yes.

1 A. Yes.

2 Q. -- programs?

3 MS. CHESEBRO: I have no additional
 4 questions. The State may have some for you.

5 THE COURT: Any questions?

6 MR. ROBINS: Thank you, Your Honor. A few
 7 brief questions.

8

CROSS-EXAMINATION

10 BY MR. ROBINS:

11 Q. Good afternoon, Mr. Williams. Now, you
 12 mentioned in your report of violations that you had
 13 contact with your victim; is that correct?

14 A. Yes.

15 Q. And you know that, when you're on your rider,
 16 you're being watched very closely; correct?

17 A. Yes.

18 Q. And you're watched closely so they can assess
 19 your capacity for being successful on probation; is
 20 that right?

21 A. Yes.

22 Q. So it's very important that you follow all of
 23 the rules; correct?

24 A. Yes.

25 Q. And you knew you weren't allowed to contact

1 Q. But you still lied despite knowing it was a
 2 joke?

3 A. Yeah.

4 Q. Mr. Williams, you did not complete the sex
 5 offender assessment group, did you?

6 A. I did not.

7 Q. And you were classified as a moderate-to-high
 8 risk to offend sexually; is that correct?

9 A. Yes.

10 MR. ROBINS: No further questions. Thank
 11 you.

12 THE COURT: Anything else?

13 MS. CHESEBRO: No, Your Honor.

14 THE COURT: You may step down.

15 Any other evidence to present?

16 MS. CHESEBRO: No, Your Honor. Just
 17 argument.

18 THE COURT: Go ahead. I'll take

19 recommendations from the State.

20 MR. ROBINS: Thank you, Your Honor.

21 The State's recommendation is consistent

22 with that of the APSI. We ask, Your Honor, on behalf

23 of the community, given the danger presented by the

24 defendant, that you relinquish jurisdiction. Your

25 Honor, that's the best option for serving the goals of

1 sentencing.
 2 Your Honor, this is one of the worst
 3 APSI's I have personally ever seen as a prosecutor.
 4 You have extraordinary and significant violations.
 5 This isn't too much commissary. This isn't being out
 6 of bunk or not maintaining a certain lifestyle. This
 7 is new criminal conduct from violating a no contact
 8 order. It is criminal plans and intention. Talks
 9 about drug running and threatening the well-being of a
 10 staff member. So you have criminal conduct and
 11 criminal plans while in a controlled environment. He
 12 has absolutely zero hope for being rehabilitated while
 13 out on probation. And he presents an unmitigated risk
 14 at that point.

15 Furthermore, Your Honor, we're dealing
 16 with a significant crime. This isn't meth possession.
 17 This is a sex offense, lewd and lascivious conduct. He
 18 is a high risk -- moderate-to-high risk to reoffend
 19 sexually. He failed to complete the sex offender
 20 assessment group. I understand that he wants to go
 21 back and do another rider, but he certainly can't
 22 complete a sex offender assessment group. He cannot
 23 complete the core classes he needs to address his core
 24 criminality that brings him before the Court. That is
 25 impossible to satisfy with a second rider. So that

1 engaged in. I would note he was seven days shy in
 2 Phase 3 of treatment in completing that programming,
 3 specifically the SOAG treatment, and is able to return
 4 and do so should this Court see fit.

5 In looking at and following up in the
 6 testimony that you heard here this afternoon,
 7 Mr. Williams did a good job in engaging in the
 8 treatment programming. Where we failed is in the
 9 behavioral aspects. And he had spoke to this Court
 10 about why -- what tools are out there available at NICI
 11 in order to address those concerns.

12 When we look at the C notes, themselves,
 13 that underscores what we heard here today. On
 14 September 23 the Counselor Malone says, "Mr. Williams
 15 is putting in a good effort in this sex offender
 16 treatment group." November 4, in group Mr. Williams
 17 says he is working very hard. November 7, Mr. Williams
 18 is capable and was able to do the program assignments
 19 and participate well in group. July 16, when he sought
 20 to leave the kitchen early in order to do his
 21 programming. July 29, again, wanted to go work on the
 22 assignments for class. August 6, advanced Phase 2 in
 23 treatment. September 8, able to complete probation and
 24 resource plan portfolio.

25 What we have is somebody that understood,

1 option should not be one that sounds too good to the
 2 Court, in the State's opinion.

3 Furthermore, Your Honor, this isn't the
 4 defendant's first crime. He has a previous history of
 5 sex offenses. So the sex offense history, the current
 6 case before the Court, the miserable job he did on his
 7 retained jurisdiction warrants imposition at this
 8 point. He presents too much of a risk to the
 9 community. He's unrehabilitated. He clearly hasn't
 10 been deterred because he engages in similar criminal
 11 conduct. Punishment can be achieved by that, and
 12 ultimately the protection of society is necessitated.

13 Thank you.

14 THE COURT: We kept restitution open until
 15 today?

16 MR. ROBINS: Your Honor, I've been given no
 17 information pertaining to restitution; so at this point
 18 I don't think there is any restitution.

19 THE COURT: Thank you.

20 Ms. Chesebro?

21 MS. CHESEBRO: Thank you, Your Honor.

22 As the Court heard, we're not asking for
 23 Mr. Williams to go out on his probation at this point.
 24 What we're asking the Court to do is to give him the
 25 opportunity to complete the programming which he

1 when he went on a retained jurisdiction, that he needed
 2 to do well in treatment and, to the detriment of
 3 probably some other prosocial behaviors, did that. And
 4 so we are asking the Court to send Mr. Williams back
 5 down to complete the retained jurisdiction. I think
 6 that Chris's suggestion to this Court that he
 7 participate in the New Directions or MRT program is
 8 appropriate. And there is ample time in order to
 9 engage in that treatment as well as complete the SOAG
 10 treatment that he has already been mandated to do.

11 So for those reasons, Your Honor, we are
 12 asking that you not follow the recommendations of the
 13 State or the APSI and give Mr. Williams the opportunity
 14 to return on retained jurisdiction.

15 THE COURT: Thank you.

16 The recommendation from the Department of
 17 Corrections is that I relinquish jurisdiction. When I
 18 look through that report, it has a number of very
 19 troublesome things that were discussed here today. The
 20 bottom line is that Mr. Williams hasn't -- his criminal
 21 thinking has not improved, he's got a lack of self
 22 control, he's unable to establish borders.

23 There were specific things that happened
 24 down there that are really incredible for someone who's
 25 on a rider. First of all, he was sentenced for lewd

1 conduct with a child, and he makes contact with the
2 child while he's on the rider. To me that -- I don't
3 understand how or why anyone would ever do something
4 like that unless they just totally didn't get it. You
5 were sentenced for having contact with that victim, and
6 you contacted her while you were down there in
7 violation of a no contact order while you were being
8 supervised under very strict conditions.

9 You talk about making a drug run when you
10 get out of the rider program. Whether it's a joke or
11 not, it's just simply incredible to me that somebody
12 would even discuss that while you were down there.
13 You're in -- and then you threaten the prison staff.
14 Again, if I was to send you back down there or put you
15 on probation, what kind of a message does that send?
16 It's okay to go down and threaten the prison staff and
17 no harm, no foul.

18 The bottom line is the decision I have to
19 make here today is whether you're a candidate for
20 probation. And you've proved time and again that
21 you're not a candidate for probation.

22 As far as sending you back down on a
23 rider, I would not do that based on what we've seen
24 here. The other thing is, there simply isn't enough
25 time for to you complete a rider. My jurisdiction

1 expires on April 23 of next year, And there wouldn't be
2 enough time to do another rider in any event. Even if
3 there was, I would not do that.

4 So I am going to relinquish jurisdiction.
5 The sentence will remain the same as originally
6 imposed, a ten-year sentence consisting of three years
7 fixed, seven years indeterminate. And by my count
8 you'll receive credit for 385 days. There were 147
9 days at the time I sentenced you. And since then
10 there's been 238. I don't know if you've calculated it
11 or not.

12 MS. CHESEBRO: I didn't.

13 THE COURT: In any event that's what I come
14 up with. If the parties come up with something
15 different, we can --

16 All right. I'm going to remand you to the
17 custody of the sheriff for transportation to the
18 Department of Correction.

19 (Proceedings concluded at 1:33 p.m.)