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State v. Matney Appellant's Brief Dckt. 43056

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 43056
Plaintiff-Respondent,)	
)	CANYON COUNTY NO. CR 2014-23655
v.)	
)	
ANTHONY MICHAEL MATNEY,)	APPELLANT'S BRIEF
)	
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Anthony Matney pled guilty to felony driving under the influence of alcohol (DUI), and admitted to being a persistent violator of the law, and the district court sentenced him to a unified term of 25 years, with six and one-half years fixed. Mr. Matney asserts that the district court abused its discretion both by imposing an excessive sentence and by denying his Rule 35 motion, in light of the mitigating factors that exist in his case.

Statement of the Facts & Course of Proceedings

The State charged Mr. Matney with felony DUI and alleged that he was a persistent violator of the law. (R., pp.18-22, 31-32.) Seeking nothing in return,

Mr. Matney pled guilty as charged and admitted to being a persistent violator. (R., pp.25-29, 32-38; Tr. 11/26/14, p.4, L.10 – p.26, L.19.) During the sentencing hearing, the State requested the court impose a unified term of 40 years, with 10 years fixed, while counsel for Mr. Matney requested that the court impose a unified term of 15 years, with five years fixed. (Tr. 2/4/15, p.14, Ls.9-15; p.16, Ls.7-8.) The district court imposed a unified term of 25 years, with six and one-half year fixed. (R., pp.51-52; Tr. 2/4/15, p.22, Ls.10-19.) Mr. Matney filed a timely Notice of Appeal. (R., pp.53-56.) He also filed a timely Rule 35 motion which the district court denied. (R., pp.57-58, 69-84.)

ISSUES

1. Did the district court abuse its discretion when it imposed upon Mr. Matney a unified sentence of 25 years, with six and one-half years fixed, in light of the mitigating factors that exist in his case?
2. Did the district court abuse its discretion when it denied Mr. Matney's Idaho Criminal Rule 35 Motion for a Reduction of Sentence?

ARGUMENT

I.

The District Court Abused Its Discretion When It Imposed Upon Mr. Matney A Unified Sentence Of 25 Years, With Six And One-Half Years Fixed, In Light Of The Mitigating Factors That Exist In His Case

Mr. Matney asserts that, given any view of the facts, his unified sentence of 25 years, with six and one-half years fixed, is excessive. 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. Matney does not allege that his sentence exceeds the statutory maximum. Accordingly, in order to show an abuse of discretion, Mr. Matney 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)).

Anthony Matney is a long-suffering alcoholic. He started drinking at the age of 14 and, although he had periods of sobriety, he has continued to drink for most of his life. (PSI, pp.21, 26-27.)¹ Mr. Matney describes himself as an alcoholic and admits that he needs help for his addiction. (PSI, pp.26-27.) Mr. Matney expressed that he was very upset with himself for the choices he made. (PSI, pp.4-5.) He wrote a letter to the district court expressing disappointment in himself for allowing his addiction to take

¹ Citations to the Presentence Investigation Report and attached documents will refer to the page numbers associated with the electronic file containing those documents.

control of his life, and shame for the negative effect that his drinking has had on his family, and on society in general. (PSI, p.68.) The district court noted that Mr. Matney's acceptance of responsibility for his actions was a good first step towards his rehabilitation. (Tr. 2/4/15, p.24, Ls.9-17.)

Mr. Matney's potential for success is enhanced greatly by the support he has from his family. His daughter, Demitra Matney, his fiancée, Nikolette Harding, and his mother, Janine Matney, all wrote letters in support describing Mr. Matney as a hard-working person who is supportive and caring, and whose downfall has been his alcohol addiction. (PSI, pp.69-75.) Idaho Courts recognize that acceptance of responsibility, a willingness to seek treatment for an alcohol problem, and the support of family, are all mitigating factors that should counsel a district court to impose a less severe sentence. See *State v. Nice*, 103 Idaho 89 (1982); *State v. Shideler*, 103 Idaho 593 (1982); *State v. Sanchez*, 117 Idaho 51 (Ct. App. 1990). Mr. Matney asserts that, in light of the above-described mitigating factors, the district court abused its discretion by imposing an excessive sentence.

II.

The District Court Abused Its Discretion When It Denied Mr. Matney's Rule 35 Motion For A Reduction Of Sentence

A motion to alter an otherwise lawful sentence under Rule 35 is addressed to the sound discretion of the sentencing court, and essentially is a plea for leniency which may be granted if the sentence originally imposed was unduly severe. *State v. Trent*, 125 Idaho 251, 253 (Ct. App. 1994), (citing *State v. Forde*, 113 Idaho 21 (Ct. App.1987) and *State v. Lopez*, 106 Idaho 447 (Ct. App. 1984)). "The criteria for examining rulings

denying the requested leniency are the same as those applied in determining whether the original sentence was reasonable.” *Id.* (citing *Lopez*, 106 Idaho at 450). “If the sentence was not excessive when pronounced, the defendant must later show that it is excessive in view of new or additional information presented with the motion for reduction. *Id.* (citing *State v. Hernandez*, 121 Idaho 114 (Ct. App. 1991)).

Mr. Matney requested that the district court reduce the fixed portion of his total sentence from six and one-half years, to three years. (R., pp.69-70.) In support of his motion, his counsel noted that Mr. Matney had not been a disciplinary problem while in the county jail, had continued to volunteer to work in the jail, and had attended support groups not ordered by the court. (R., p.70.) Mr. Matney supported his motion with additional letters from his mother and fiancée, who offered transportation to and from any support meetings that Mr. Matney would be required to attend, and who verified that Mr. Matney would have employment when he is released. (R., pp.72-73.) Mr. Matney asserts that, in light of this new information, the district court abused its discretion by denying his Rule 35 motion.

CONCLUSION

Mr. Matney respectfully requests that this Court reduce the fixed portion of his sentence to three years, or for whatever relief this Court deems appropriate.

DATED this 3rd day of November, 2015.

/s/
JASON C. PINTLER
Deputy State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 3rd day of November, 2015, I served a true and correct copy of the foregoing APPELLANT'S BRIEF, by causing a copy thereof to be placed in the U.S. Mail, addressed to:

ANTHONY MICHAEL MATNEY
INMATE #51766
PAYETTE COUNTY JAIL
1130 3RD AVENUE NORTH
PAYETTE ID 83661

JUNEAL C KERRICK
DISTRICT COURT JUDGE
E-MAILED BRIEF

DAVID J SMETHERS
CANYON COUNTY PUBLIC DEFENDER
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DEPUTY ATTORNEY GENERAL
CRIMINAL DIVISION
E-MAILED BRIEF

_____/s/_____
EVAN A. SMITH
Administrative Assistant

JCP/eas