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State v. Wiley Respondent's Brief Dckt. 43099

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 43099
Plaintiff-Respondent,)	
)	Fremont County Case No.
v.)	CR-2014-665
)	
JERMAIN SHERELL WILEY,)	
)	RESPONDENT'S BRIEF
Defendant-Appellant.)	
_____)	

Issue

Has Wiley failed to establish that the district court abused its discretion by imposing a 15-year fixed sentence upon his guilty plea to attempted murder in the first degree?

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

Wiley (who was on parole in California) and his girlfriend, Jessica Brown, devised a plan to kill Brown's stepfather, Eric. (R., pp.8-9; PSI, pp.3-4, 14.) Wiley and Brown drove from California to Idaho, stopping along the way to purchase ammunition at a sporting goods store in Pocatello, Idaho. (R., p.9; PSI, pp.4, 14.) Upon arriving in

Rexburg, Idaho, Wiley and Brown got a room at a local motel. (R., p.9; PSI, pp.4, 14.) Wiley subsequently drove Brown's vehicle to her mother's and stepfather's home, lured Eric out of the house under the guise of asking for directions, and then shot Eric in the shoulder with a .380 caliber handgun, causing Eric to "spin around and land face first in the snow." (R., pp.8-9; PSI, p.3.) Wiley then shot Eric in the back of the head and fled the scene. (R., p.8; PSI, pp.3, 14.)

The state charged Wiley with attempted murder in the first degree, unlawful possession of a firearm, and conspiracy to commit murder in the first degree. (R., pp.50-51, 109-11.) Pursuant to a plea agreement, Wiley pled guilty to attempted murder in the first degree and the state agreed to dismiss the remaining charges and to not file a persistent violator enhancement. (R., pp.171-72.) The district court imposed a sentence of 15 years fixed. (R., pp.190-92.) Wiley filed a notice of appeal timely from the judgment of conviction. (R., pp.206-09.)

Wiley asserts his sentence is excessive in light of his age, claim that he may have been "manipulated" by his girlfriend, and because he believes a lesser sentence will achieve the goals of sentencing. (Appellant's brief, pp.5-6.) The record supports the sentence imposed.

The length of a sentence is reviewed under an abuse of discretion standard considering the defendant's entire sentence. State v. Oliver, 144 Idaho 722, 726, 170 P.3d 387, 391 (2007) (citing State v. Strand, 137 Idaho 457, 460, 50 P.3d 472, 475 (2002); State v. Huffman, 144 Idaho 201, 159 P.3d 838 (2007)). It is presumed that the fixed portion of the sentence will be the defendant's probable term of confinement. Id. (citing State v. Trevino, 132 Idaho 888, 980 P.2d 552 (1999)). Where a sentence is

within statutory limits, the appellant bears the burden of demonstrating that it is a clear abuse of discretion. State v. Baker, 136 Idaho 576, 577, 38 P.3d 614, 615 (2001) (citing State v. Lundquist, 134 Idaho 831, 11 P.3d 27 (2000)). To carry this burden the appellant must show that the sentence is excessive under any reasonable view of the facts. Baker, 136 Idaho at 577, 38 P.3d at 615. A sentence is reasonable, however, if it appears necessary to achieve the primary objective of protecting society or any of the related sentencing goals of deterrence, rehabilitation or retribution. Id.

The maximum prison sentence for attempted first degree murder is 15 years. I.C. §§ 18-306(1), -4004. The district court imposed a sentence of 15 years fixed, which falls within the statutory guidelines. (R., pp.190-92.) At sentencing, the district court articulated the correct legal standards applicable to its decision and also set forth in detail its reasons for imposing Wiley's sentence. (2/24/15 Tr., p.36, L.17 – p.51, L.14.) The state submits that Wiley has failed to establish an abuse of discretion, for reasons more fully set forth in the attached excerpt of the sentencing hearing transcript, which the state adopts as its argument on appeal. (Appendix A.)

Conclusion

The state respectfully requests this Court to affirm Wiley's conviction and sentence.

DATED this 3rd day of May, 2016.

/s/ Lori A. Fleming
LORI A. FLEMING
Deputy Attorney General

VICTORIA RUTLEDGE
Paralegal

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 3rd day of May, 2016, served a true and correct copy of the attached RESPONDENT'S BRIEF by emailing an electronic copy to:

DEBORAH WHIPPLE and DENNIS BENJAMIN
Nevin, Benjamin, McKay & Bartlett LLP

at the following email addresses: dwhipple@nbmlaw.com; db@nbmlaw.com.

/s/ Lori A. Fleming
LORI A. FLEMING
Deputy Attorney General

APPENDIX A

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1 coming here with the intent to kill or intent to
2 commit a murder, should know, the word should get
3 out, that our courts take this very seriously, that
4 these would be killers will be caught and will be
5 sentenced to the maximum, your Honor, in Idaho.
6 Rehabilitation potential. I believe this
7 defendant has zero rehabilitation potential, your
8 Honor. He's shown no remorse, and has not cooperated
9 with the State.
10 And now for punishment. When the
11 defendant pled guilty before this Court, your Honor,
12 he indicated, and I've listened to the recording many
13 times: "I intended to murder." So the punishment,
14 your Honor, that this Court invokes must reflect the
15 very high value that we, as an American society,
16 place on the sanctity of human life.
17 So with these considerations in mind,
18 your Honor, the State is recommending, and I know we
19 can only recommend, the Court will make the final
20 decision, but we're recommending a maximum fixed
21 sentence of 15 years, a maximum fine of \$25,000, and
22 payment of full restitution.
23 Thank you, your Honor.
24 THE COURT: Thank you, Mr. Lewles.
25 Mr. Wiley, before I determine what your

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1 sentence should be, you have an opportunity to
2 address the Court if you'd like to do that. It's
3 known as your right of allocution. And I know you've
4 been sitting there listening very closely to what
5 everyone has said about your case. This is your
6 turn.
7 Is there anything you think I need to
8 know in mitigation or about the facts about this case
9 that I don't know at this time that you'd like to
10 share with me? Is there anything you want to tell
11 me?
12 (Conferring).
13 THE DEFENDANT: No, sir.
14 THE COURT: Okay. And I understand if
15 you don't want to say anything, you don't have to,
16 but I want you to know that I have not finally made
17 up my mind yet, so if there's anything you think I
18 should know, I want to give you an opportunity to
19 tell me. Okay?
20 THE DEFENDANT: Yes, sir.
21 THE COURT: Is there anything you'd like
22 to say?
23 THE DEFENDANT: I'd just ask that you
24 have mercy on me, Judge Moeller.
25 THE COURT: Okay. Thank you, Mr. Wiley.

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1 I have one question for you, and you don't have to
2 answer it if you don't want to, but let me just ask
3 it:
4 I know you haven't said very much about
5 this case, but you did make a brief comment in your
6 presentence investigation when you were asked why you
7 committed the crime, and you gave me an answer -- you
8 gave the presentence investigator an answer which I
9 don't understand. The answer you gave to why was,
10 "To protect my family."
11 And you don't have to answer this if you
12 don't want to, I'll let you visit with your attorney
13 about it, but it would be helpful for me to
14 understand what you meant when you said, "To protect
15 my family."
16 THE DEFENDANT: Personally, Judge, I was
17 being sarcastic to the lady. I really didn't want to
18 answer her questions, so, you know, I gave her that
19 statement.
20 THE COURT: So this had nothing to do
21 with your family?
22 THE DEFENDANT: Well, yes, it did. I
23 guess I just -- I guess I just didn't -- I don't
24 know, Judge, I didn't really mean to tell her that.
25 THE COURT: Again, I just want to make

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1 sure that if there's anything that mitigates this
2 offense that I don't know about, this is my last
3 chance to hear about it.
4 THE DEFENDANT: Yes.
5 THE COURT: So, again, if there was some
6 person you thought you were protecting or something,
7 which is why you did this, I need to know that.
8 THE DEFENDANT: No, Judge.
9 THE COURT: Okay. Thank you very much.
10 Are you satisfied with the representation
11 you've received from Mr. Archibald in this case?
12 THE DEFENDANT: Yes, sir.
13 THE COURT: And, counsel, is there any
14 reason why I shouldn't impose sentence at this time?
15 MR. LEWLES: No, your Honor.
16 MR. ARCHIBALD: No, your Honor.
17 THE COURT: Well, Mr. Wiley, based upon
18 your plea of guilty, it is the judgment of this Court
19 that you are, in fact, guilty of the crime of
20 attempted first degree murder, one of the most
21 serious crimes anyone can be guilty of.
22 I've had a chance to carefully review
23 this matter. First, let's talk a little bit about
24 your history. The presentence investigation shows
25 that you had a very troubled childhood, some juvenile

<p style="text-align: right;">37</p> <p>1 offenses. All of your offences, in fact, before this 2 occurred took place in Bakersfield, California. 3 As an adult, you had two felony charges, 4 one for participating in a criminal street gang, and 5 the other is a grand theft from a person. You were 6 sentenced to prison, served a short term, and then 7 were placed on parole. In the short time you were on 8 parole, you had four parole violations. And your 9 last parole violation is for absconding, and it was 10 while you were absconding that last parole violation, 11 that occurred ten days before the shooting in this 12 case. So I mean, it was as poor a record on parole 13 as you could possibly have. And then you commit an 14 attempted murder while on parole. It's just about as 15 bad a record as you can imagine. 16 No doubt because of that history, the 17 presentence investigator has recommended that I 18 incarcerate you. 19 I've reviewed carefully the other 20 recommendations before the Court, first the GAIN Core 21 Assessment. They both identify you with mild 22 Cannabis abuse, but no other serious problems. And 23 they conclude that you don't meet the criteria for 24 substance abuse treatment. And your mental health 25 review shows no symptoms of mental health problems.</p>	<p style="text-align: right;">39</p> <p>1 sentence that I give in every case sends a message. 2 Certainly the worst message that I could possibly 3 send is that the Court condones this kind of 4 behavior, because clearly, I don't. I don't know 5 anyone who would. So my sentence has to have a 6 deterrent effect to discourage this kind of malicious 7 behavior in the future. 8 Next, I have to look at the possibility 9 of rehabilitation, and I'm not sure I quite agree 10 with Mr. Lewies there, because I think anyone is 11 capable of being rehabilitated, I think any person 12 has within themselves the ability to change. The 13 issue is whether or not they're willing to do that. 14 And I think where I would agree with Mr. Lewies is I 15 haven't seen any willingness in you to change, but 16 that can happen. That can happen in the Department 17 of Corrections. That can happen with counseling and 18 with perhaps just growing up and getting a little 19 wiser about life, about thinking what kind of life 20 you want to live. 21 Finally, there's punishment or 22 retribution for wrongdoing. There are some crimes 23 that are so serious that your debt to society can't 24 be paid by a simple fine or by placing you on 25 probation. There are some crimes that are so serious</p>
<p style="text-align: right;">38</p> <p>1 However, they do recommend some treatment 2 due to the serious nature of this offense, and I 3 guess the thinking is that anyone who committed a 4 crime this serious could probably use some mental 5 health counseling. 6 I've carefully reviewed the objectives of 7 criminal sentencing that have been adopted by the 8 Idaho Supreme Court; Mr. Lewies went over those in 9 recitation. The first and foremost of those is my 10 job as a Judge is to protect society, and I take that 11 very seriously. And of all the crimes I need to 12 protect the society from, I would say murder probably 13 is number one. 14 I have to consider deterrence, too. 15 Whenever I do at sentencing, I have to deter you from 16 committing a crime like this again. I have to give 17 you a sentence serious enough that does that. Now, 18 you've already served some time in prison. You've 19 already been on parole, and that experience didn't 20 deter you, so I have to decide what else we can 21 possibly do. 22 As Mr. Lewies mentioned, deterrence 23 doesn't just apply to the defendant, it also applies 24 to society as a whole. And whether I intend to or 25 not, I need to recognize, and I do, that every</p>	<p style="text-align: right;">40</p> <p>1 that prison is the appropriate consequence. And 2 that's outlined in Idaho Code 19-2521, which I'll 3 review in more detail here in a few minutes. But in 4 19-2521, it does set forth factors that I'm supposed 5 to weigh; some way in favor of prison, and some of 6 those factors weigh in favor of probation; those 7 would be called mitigating factors. The ones that 8 weigh in favor of prison would be known as 9 aggravating factors. 10 And there are mitigating and aggravating 11 factors present here. Let me review some of the 12 mitigating factors. First of all, I know, Mr. Wiley, 13 that you came from a very difficult background, and I 14 mention that not because it excuses your behavior, it 15 doesn't. Lots of people come from difficult 16 backgrounds and are able to make changes in their 17 life when they grow older. But your rough background 18 certainly puts this case into context. It helps me 19 understand how a young person can go so far astray. 20 You were raised by your maternal 21 grandmother. You had no contact with your biological 22 father. You had intermittent contact with your 23 mother because of issues that she had. So, again, it 24 was a far from ideal situation in a place where 25 likely you learned at an early age lessons that some</p>

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1 of us hopefully never learn in life.
 2 The Court notes that you lost your
 3 grandfather at 13, who you were close to, you lost
 4 your mother to breast cancer five years later. So,
 5 again, none of these things excuse your behavior, but
 6 it helps me understand that I'm dealing with a person
 7 here who was brought up in less than ideal
 8 circumstances. And I am mindful of that.
 9 I note that you have a limited education,
 10 only 11 years of school. I note that you're very
 11 young. Even now that I've outlined this horrific
 12 criminal record that you have, you're still only 21
 13 years old. That's just a very sad fact in this case.
 14 It doesn't seem that substance abuse is a
 15 major issue in this case, although you have been
 16 involved with some marijuana, but it sounds like
 17 you've been able to stay clean from that for about
 18 the last three years.
 19 THE DEFENDANT: Yes, sir.
 20 THE COURT: That gives me some hope that
 21 if you make up your mind to do something right,
 22 you're capable. I certainly don't think you're
 23 incapable of making good choices. You just haven't
 24 illustrated a lot of examples to the Court of doing
 25 that in your life.

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1 Your attorney said that you were likely a
 2 pawn, and I think that's probably a good analysis.
 3 The difficulty, though, with that analysis is who
 4 were you a pawn of? And it's hard to say. I don't
 5 have access to all the facts the attorneys do. Were
 6 you a pawn of the co-defendant? Were you doing this
 7 under her direction? Was this her idea and you were
 8 sent up there to be the muscle for her to accomplish
 9 this? Or were you sent there by someone that she was
 10 associated with, someone you were a lieutenant to, or
 11 were you basically a paid assassin? I have a lot of
 12 questions that really aren't answered, and I suspect
 13 you know the answers to all of those questions, but,
 14 again, I'm not going to force you, and I have no
 15 desire to force you to tell me those if you don't
 16 want to. But, again, you make it very difficult,
 17 because I do agree with your attorney, I think you're
 18 a pawn, but I'm just not sure who you're a pawn of
 19 and why. It would be helpful in analyzing the
 20 mitigating factors if I knew that, but I don't.
 21 Now, there are some very serious factors
 22 in aggravation that can't be ignored. They are
 23 compelling and, frankly, in many instances, they are
 24 quite horrific.
 25 First of all, there's the nature of the

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1 crime. There was absolutely no provocation for this
 2 crime. This, by the very definition, was a cold
 3 blooded act. There was no reason why you were angry
 4 with this person. There was no reason why you were
 5 provoked by this person. Essentially, you shot a man
 6 that you didn't know in the chest; and then when he
 7 fell down face first in the snow, you shot him in the
 8 back of the head. That sounds to me like an
 9 execution style attempted killing.
 10 And I don't know what happens on the
 11 streets of Bakersfield, but that doesn't happen in
 12 Island Park, Idaho without there being very serious
 13 consequences.
 14 This was a crime that just didn't happen
 15 on the spur of the moment or in a moment of passion,
 16 this looks like it was premeditated and planned for a
 17 long time. There was the long drive from Bakersfield
 18 to Island Park. There was stops to buy ammunition,
 19 to secure housing, to locate the residence. There
 20 was a lot of planning that went into this.
 21 The Court has already noted in
 22 aggravation, your record, which is considerable.
 23 This is your third felony, sir. You're fortunate
 24 that your attorney was able to negotiate such a good
 25 deal for you. If you had been prosecuted as a

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1 persistent violator, this being your third felony,
 2 you'd be facing five years minimum to life maximum.
 3 If the prosecutor chose to charge you with a deadly
 4 weapon enhancement, I'd be looking sentencing you to
 5 up to 30 years instead of just 15 years. If your
 6 attorney hadn't persuaded the prosecutor to let you
 7 plead to attempted murder in the first degree instead
 8 of conspiracy, you'd be facing a life sentence again.
 9 So I don't know if you realize how lucky
 10 you are, and I haven't even mentioned -- I don't know
 11 whether it's fate or grace or just you're a really
 12 bad aim, but it's a miracle that this man is alive
 13 today after having been shot in the chest, and then
 14 in the back of the head at very close range. A lot
 15 of factors at play here that I just don't understand.
 16 But the fact that you're here on an
 17 attempted murder instead of a real murder has nothing
 18 to do with you. It has everything to do with either
 19 luck or fate or grace or whatever you want to call
 20 it. But it had nothing to do with you or what was in
 21 your heart, because your intent was to kill the man;
 22 that's what you intended. And the reasons it didn't
 23 happen have nothing to do with anything you had any
 24 control over.
 25 The Court also notes that this kind of

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1 crime has a significant impact on the victim and the
2 victim's family. And although the victim appears to
3 have made a miraculous recovery, frankly, there's no
4 question that this kind of thing is going to cause
5 him pain and difficulty for the rest of his life, and
6 will likely cause his family pain and difficulty for
7 the rest of their lives; it will cause all of them --
8 they will always be looking over their shoulder
9 worried and concerned.

10 So considering all of the evidence and
11 the recommendations of counsel, the Court is going to
12 sentence you today, not by the results of your
13 action, but by your actions and your intent, because
14 I think that's really what this case is about; it's
15 not the result, but it's about your actions and your
16 intent.

17 And so because of that, it's the judgment
18 of the Court that you should be sentenced to a total
19 unified sentence of 15 years in the United States
20 Penitentiary. And that will be a term of 15 years
21 fixed determinant, with no possibility of parole.
22 When you finish your 15 years in Idaho, I understand
23 there's also time in California that you'll have to
24 take care of, because you are still on parole out of
25 California for absconding.

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1 The Court will give you full credit for
2 your time served in this case. Let me make it clear
3 that I don't often -- in fact, I can't remember a
4 time since I've been a judge where I've given someone
5 a complete maximum sentence fixed, but I think the
6 facts in this case justify it. Again, this was a
7 cold blooded execution style shooting. It's one of
8 the worst possible crimes imaginable. And so
9 therefore I think, frankly, there might be some that
10 think 15 years isn't enough, and I have no answer for
11 those folks, I can only deal with the charges that
12 were presented to this Court.

13 I looked very carefully at 19-2521.
14 Section 1 of that statute sets forth factors weighing
15 in favor of prison. And I would note that having
16 reviewed those factors, I find that all of them are
17 present in this case.

18 The Court notes that there's an undue
19 risk, given your behavior on parole before, that if I
20 place you on probation, you'll commit another crime;
21 likely a serious crime. The Court notes that you do
22 need correctional treatment that would be the best
23 and most safely be provided in a correctional
24 institution. That any lesser crime than 15 years for
25 shooting a man in the back of the head execution

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1 style would diminish the seriousness of this action.
2 Imprisonment is an appropriate punishment and
3 deterrent to you, and an appropriate deterrent to the
4 community as a whole. And that you are a
5 professional criminal, multiple offender under the
6 statute.

7 I've looked very carefully, sir, under
8 Idaho Code 19 2521(2) for some mitigating factors
9 that might justify the Court rationally that sentence
10 down a little bit. I pleaded with you earlier in
11 this hearing that if there is any factors in
12 mitigation, to let me know. And there just are not
13 enough mitigating factors to convince the Court that
14 any less than 15 years would be just under the
15 circumstances.

16 The Court is going to impose a fine. I
17 recognize you don't have the ability to pay a \$10,000
18 fine or \$50,000 fine or \$25,000 fine. None of those
19 fines, frankly, would reflect the serious nature of
20 the crime. I'm going to impose a \$10,000 fine in
21 this matter, recognizing that it could be more; it
22 could be less. I doubt you have the ability to pay
23 no matter what I set, but \$10,000 to you is the order
24 of the Court.

25 There will be court costs of \$165.50

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1 along with the Victim's Relief Fund payment. And I'm
2 also going to order you to pay full restitution. The
3 State of Idaho will have 45 days to submit a request
4 for restitution and outlining the basis for that
5 request, and if it appears appropriate, I will sign
6 it.

7 Mr. Archibald, you will have 30 days
8 after the Court signs the order of restitution if you
9 wish to request a hearing on that to make the State
10 prove their case on that.

11 You will be ordered to reimburse Fremont
12 County for the cost of your public defender services;
13 those amounts are to be determined. I know Mr.
14 Archibald has submitted regular billings to the
15 Court, and again, that will be an amount that will
16 continue through the end of his representation in
17 this matter.

18 Now, Mr. Wiley, you have a right to
19 appeal this decision. If you disagree with it for
20 any reason, you have 42 days to file an appeal. If
21 you can't afford an attorney to help you with the
22 appeal, I will appoint one at public expense to
23 represent you. Again, that's 42 days from today if
24 you wish to appeal my sentence.

25 You also have rights under Idaho Criminal

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1 Rule 35. You have 120 days to file a motion if you
 2 think the sentence was too harsh or too severe or
 3 merely wish to seek further leniency. If there's
 4 evidence that I don't know about, that I should have
 5 heard at your sentencing, you would have an
 6 opportunity under Rule 35 to have your attorney
 7 present that to the Court.

8 Additionally, you have post conviction
 9 relief rights that extend one year after your time
 10 for appeal expires. You have, again, one year after
 11 your appeal expires, so once the 42 days gets done,
 12 you'll have one year after that to file a petition
 13 for post conviction relief. I know your attorney is
 14 well versed in those procedures, and if you have any
 15 questions about those matters, you can visit with him
 16 about those.

17 At this time, do you have any questions
 18 for the Court about your sentence or your appellate
 19 rights?

20 THE DEFENDANT: No, sir.

21 THE COURT: Okay, very well. Again, I
 22 recognize 15 years is a strict sentence. On the
 23 other hand, this isn't a case about -- It certainly
 24 is different than a traumatic injury to a child or
 25 death caused under the circumstances. Mr. Archibald,

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1 I just don't think that case is applicable. I think
 2 this was an effort to shoot a man in cold blood and
 3 murder him, and I think 15 years is a very
 4 appropriate sentence for that kind of crime.

5 At this time I'm going to order that if
 6 the defendant has not already done so, pursuant to
 7 19-5506, that he submit a DNA sample and a right
 8 thumb print impression for the State's records. The
 9 attorneys will turn in their PSIs, unless they have a
 10 need or if they're considering a Rule 35 motion or
 11 other relief, I'll allow them to retain them if they
 12 would like, otherwise they'll need to turn those in.
 13 And I'm going to remand you at this time back to the
 14 sheriff of Fremont County to await the transportation
 15 with appropriate authorities to the Idaho Department
 16 of Corrections.

17 Is there any other items I need to
 18 address at this time? Mr. Lewies?

19 MR. LEWIES: No, your Honor. Thank you.

20 THE COURT: Mr. Archibald?

21 MR. ARCHIBALD: No, your Honor.

22 THE COURT: Okay. Well, that brings this
 23 matter to a conclusion, then.

24 Mr. Wiley, I have some parting words. I
 25 want you to know that I never send anyone to prison

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1 without thinking about it very carefully, and I've
 2 thought about this a long time. The one thing I will
 3 say, as I've said before, that all people have a
 4 potential to change. And you're given an opportunity
 5 here to take advantage of the opportunities from the
 6 Department of Corrections to change. I know last
 7 time you went to prison, I think things got worse for
 8 you. You either fell back into old patterns and made
 9 poor decisions when you got out. That doesn't have
 10 to happen again. But, again, your future from this
 11 point on is in your hands, not the Court's hands.

12 I wish you the best of luck, and I hope
 13 you'll make better decisions in the future. If
 14 there's nothing else, we'll be in recess on this.

15 - - -

16 (Whereupon, the proceedings were adjourned.)

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1 REPORTER'S CERTIFICATE

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3 I, Denise Novak, an Official Court
 4 Reporter within and for the state of Idaho, do
 5 hereby certify:

6 That I reported the proceedings in
 7 the within entitled matter, and that the
 8 within transcript is a true record of such
 9 proceedings.

10 I further certify that I am not
 11 related, by blood or marriage, to any of
 12 the parties in this matter and that I am in
 13 no way interested in the outcome of this
 14 matter.

15 IN WITNESS WHEREOF, I have hereunto
 16 set my hand this 29th day of May, 2015.

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18
19 *Denise Novak*
 20 DENISE NOVAK

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