

9-24-2015

# State v. Ramos-Valencia Appellant's Brief Dckt. 43247

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	
	)	NO. 43247
Plaintiff-Respondent,	)	
	)	ADA COUNTY NO. CR 2014-13869
v.	)	
	)	
ROBERTO RAMOS-VALENCIA,	)	APPELLANT'S BRIEF
	)	
Defendant-Appellant.	)	
_____	)	

STATEMENT OF THE CASE

Nature of the Case

After Roberto Ramos-Valencia pled guilty to aggravated battery and misdemeanor battery, the district court sentenced him to a total of fifteen years, with seven years fixed. Mr. Ramos-Valencia now appeals to this Court, contending the district court abused its discretion by imposing an excessive sentence.

Statement of the Facts & Course of Proceedings

On September 17, 2014, Mr. Ramos-Valencia stabbed his co-worker Eldred Sanchez with a knife at their place of work. (Presentence Investigation Report (“PSI”),<sup>1</sup>

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<sup>1</sup> Citations to the PSI refer to the 229-page electronic document titled “Ramos-Valencia 43247 psi.”

p.3.) He also grabbed and squeezed the neck of another co-worker, Ms. Bertha Quiros.<sup>2</sup> (PSI, p.3.) These facts formed the basis of the charges against Mr. Ramos-Valencia.

On September 18, 2014, the State filed a Complaint alleging that Mr. Ramos-Valencia committed aggravated battery, a felony, in violation of Idaho Code §§ 18-903(a), -907(b), for the stabbing of Mr. Sanchez, and a sentencing enhancement for the use of a deadly weapon, Idaho Code § 19-2520. (R., pp.6–7.) On October 9, 2014, Mr. Ramos-Valencia waived a preliminary hearing, and the magistrate bound him over to district court. (R., pp.42–44.) The State filed an Information on October 14, 2014. (R., pp.45–46.) On November 7, 2014, the State filed an Amended Information, adding a charge of misdemeanor battery, Idaho Code § 18-903(a), for the injury to Ms. Quiros. (R., pp.54–55.)

On March 13, 2015, Mr. Ramos-Valencia pled guilty pursuant to a plea agreement with the State. (R., pp.76–78; Tr., p.5, L.17–p.6, L.14, p.15, L.16–p.17, L.21.) Mr. Ramos-Valencia agreed to plead guilty to aggravated battery and misdemeanor battery, and the State agreed to dismiss the sentencing enhancement. (R., pp.76–78; Tr., p.6, Ls.2–7.) The State would seek a prison sentence, but left its recommendation open to argument. (Tr., p.6, Ls.7–10.) The district court accepted Mr. Ramos-Valencia’s guilty plea. (Tr., p.17, Ls.21–25.)

On May 15, 2015, the district held a sentencing hearing.<sup>3</sup> (R., p.79.) The district court sentenced Mr. Ramos-Valencia to fifteen years, with seven fixed, for aggravated

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<sup>2</sup> Mr. Ramos-Valencia reported that Ms. Quiros had been his girlfriend for the past eight months. (PSI, p.9.) Ms. Quiros, on the other hand, did not disclose a current relationship with Mr. Ramos-Valencia. (PSI, pp.3, 9.) Instead, she reported that she had considered leaving her husband and starting a relationship with Mr. Ramos-Valencia. (PSI, pp.3, 9.)

battery and 241 days in the Ada County Jail for misdemeanor battery, which would be served concurrently. (R., pp.79, 81–83; Tr., p.39, Ls.10–17.) The district court entered a Judgment of Conviction and Commitment on May 19, 2015. (R., pp.81–83.)

On May 21, 2015, Mr. Ramos-Valencia filed a notice of appeal. (R., pp.87–88.)

### ISSUE

Did the district court abuse its discretion when it imposed a unified sentence of fifteen years, with seven years fixed, upon Mr. Ramos-Valencia, following his guilty plea to aggravated battery and misdemeanor battery?

### ARGUMENT

#### The District Court Abused Its Discretion When It Imposed A Unified Sentence Of Fifteen Years, With Seven Years Fixed, Upon Mr. Ramos-Valencia Following His Guilty Plea To Aggravated Battery And Misdemeanor Battery

“It is well-established 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. Pierce*, 150 Idaho 1, 5 (2010) (quoting *State v. Jackson*, 130 Idaho 293, 294 (1997) (alteration in original)). Here, Mr. Ramos-Valencia’s sentence does not exceed the statutory maximum. See I.C. § 18-908 (maximum of fifteen years for aggravated battery). Accordingly, to show that the sentence imposed was unreasonable, Mr. Ramos-Valencia “must show that the sentence, in light of the governing criteria, is excessive under any reasonable view of the facts.” *State v. Strand*, 137 Idaho 457, 460 (2002).

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<sup>3</sup> To note, the PSI contains an error on page sixteen, stating that Mr. Ramos-Valencia was facing sentencing for aggravated battery *and* the deadly weapon sentencing enhancement. (PSI, p.16.) This statement is incorrect as the State agreed to dismiss the enhancement. (R., pp.76–78.)

“Reasonableness’ of a sentence implies that a term of confinement should be tailored to the purpose for which the sentence is imposed.” *State v. Adamcik*, 152 Idaho 445, 483 (2012) (quoting *State v. Stevens*, 146 Idaho 139, 148 (2008)).

In examining the reasonableness of a sentence, the Court conducts an independent review of the entire record available to the trial court at sentencing, focusing on the objectives of criminal punishment: (1) protection of society; (2) deterrence of the individual and the public; (3) possibility of rehabilitation; and (4) punishment or retribution for wrongdoing.

*Stevens*, 146 Idaho at 148. “A sentence is reasonable if it appears necessary to accomplish the primary objective of protecting society and to achieve any or all of the related goals of deterrence, rehabilitation, or retribution.” *State v. Delling*, 152 Idaho 122, 132 (2011).

Mr. Ramos-Valencia asserts that the district court abused its discretion by imposing an excessive sentence under any reasonable view of the facts. Specifically, he contends that the district court should have sentenced him to a lesser term of imprisonment in light of the mitigating factors, including his likelihood of removal from the United States, positive work history, acceptance of responsibility, and lack of planning or premeditation.

The likelihood of Mr. Ramos-Valencia’s removal from the United States is a mitigating circumstance. “[T]he effect on immigration status is an appropriate consideration for a trial court in fashioning a sentence or considering Rule 35 relief.” *State v. Tinoco-Perez*, 145 Idaho 400, 402 (Ct. App. 2008). Here, forty-two-year-old Mr. Ramos-Valencia has lived illegally in the United States since 1990. (PSI, pp.2, 6, 9; Tr., p.34, L1.) His family lives in the United States as well. (Tr., p.34, Ls.6–10; PSI, pp.8, 9.) An Immigration and Customs Enforcement (“ICE”) Agent informed the presentence

investigator that Mr. Ramos-Valencia “was an ICE Fugitive even before his arrest back in September [for the instant charges].” (PSI, p.6.) Mr. Ramos-Valencia was not aware of his fugitive status, however. (Tr., p.33, Ls.14–24.) The ICE Agent also reported, “A detainer was placed on him 09/17/2014 and he will be removed once finished here.” (PSI, p.6.) Based on this information, Mr. Ramos-Valencia likely will be deported to Mexico. (PSI, p.6.) Mr. Ramos-Valencia submits that his likelihood of removal from the United States stands in favor of mitigation.

In addition, Mr. Ramos-Valencia’s positive work history and strong work ethic are factors in favor of mitigation. See *State v. Mitchell*, 77 Idaho 115, 118, 289 P.2d 315, 317 (1955) (recognizing gainful employment as a mitigating factor); see also *State v. Shideler*, 103 Idaho 593, 594–95 (1982) (employment and desire to advance within company were mitigating circumstances). Mr. Ramos-Valencia had a “difficult childhood” in part because he and his siblings had to work “to survive.” (PSI, p.7.) He began working at age eight, and he worked over fifty hours a week. (PSI, p.7.) He left school at age fourteen to work and support his family. (PSI, pp.8, 10.) After moving to the United States at age seventeen, Mr. Ramos-Valencia maintained steady employment. (PSI, pp.8, 11.) He had worked at McDonald’s for about two years and eight months at the time of the offense. (PSI, pp.10–11.) Consistent with his work history, Mr. Ramos-Valencia stated during the presentence investigation that working hard and owning a business were important to him. (PSI, p.13.) Mr. Ramos-Valencia submits that his work history and employment goals support a lesser sentence.

Finally, although Mr. Ramos-Valencia accepts responsibility for the crime, (PSI, pp.4, 16), he contends that his lack of premeditation and planning is a relevant

mitigating circumstance. As argued by his attorney at sentencing, Mr. Ramos-Valencia just “lost his mind” without any explanation. (Tr., p.31, Ls.11–13, p.35, Ls.10–15.) Similarly, Mr. Ramos-Valencia explained during the presentence investigation that “everything happened suddenly.” (PSI, p.4.) His attorney noted, however, that nothing in the PSI indicated that Mr. Ramos-Valencia was a violent person. (Tr., p.30, L.24–p.31, L1.) Thus, these facts demonstrate that Mr. Ramos-Valencia’s behavior in this case was an isolated incident. Mr. Ramos-Valencia submits that the district court failed to give adequate consideration to his lack of planning and premeditation. *See State v. Mitchell*, 77 Idaho 115, 118 (1955) (lack of criminal intent as a mitigating factor).

#### CONCLUSION

Mr. Ramos-Valencia respectfully requests that this Court reduce his sentence as it deems appropriate. Alternatively, he requests that his case be remanded to the district court for a new sentencing hearing.

DATED this 24<sup>th</sup> day of September, 2015.

\_\_\_\_\_/s/\_\_\_\_\_  
JENNY C. SWINFORD  
Deputy State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 24<sup>th</sup> day of September, 2015, I served a true and correct copy of the foregoing APPELLANT'S BRIEF, by causing to be placed a copy thereof in the U.S. Mail, addressed to:

ROBERTO RAMOS-VALENCIA  
INMATE #115196  
ISCC  
PO BOX 70010  
BOISE ID 83707

MELISSA MOODY  
DISTRICT COURT JUDGE  
E-MAILED BRIEF

JONATHAN LOSCHI  
ADA COUNTY PUBLIC DEFENDER'S OFFICE  
E-MAILED BRIEF

KENNETH K JORGENSEN  
DEPUTY ATTORNEY GENERAL  
CRIMINAL DIVISION  
E-MAILED BRIEF

\_\_\_\_\_/s/\_\_\_\_\_  
EVAN A. SMITH  
Administrative Assistant

JCS/eas