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State v. Ramos-Valencia Respondent'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 Case No.
v.)	CR-2014-13869
)	
ROBERTO RAMOS-VALENCIA,)	
)	RESPONDENT'S BRIEF
Defendant-Appellant.)	
_____)	

Issue

Has Ramos-Valencia failed to establish that the district court abused its discretion by imposing a unified sentence of 15 years, with seven years fixed, upon his guilty plea to aggravated battery?

Ramos-Valencia Has Failed To Establish That The District Court Abused Its Sentencing Discretion

Ramos-Valencia pled guilty to felony aggravated battery and misdemeanor battery, and the district court imposed an aggregate unified sentence of 15 years, with seven years fixed. (R., pp.81-84.¹) Ramos-Valencia filed a notice of appeal timely from the judgment of conviction. (R., pp.87-89.)

Ramos-Valencia asserts his sentence is excessive in light of “his likelihood of removal from the United States, positive work history, acceptance of responsibility, and lack of planning or premeditation.” (Appellant’s brief, p.4.) 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.

APPENDIX A

17

1 Ada, State of Idaho, did willfully and unlawfully
 2 use force or violence on the person of
 3 Bertha Quiros, by grabbing Bertha Quiros on the
 4 neck and squeezing.
 5 To that charge of misdemeanor battery,
 6 how do you plead, guilty or not guilty?
 7 **A. Guilty.**
 8 **Q.** Can you tell me, in your own words,
 9 what you did that makes you guilty of battery?
 10 **A. I grabbed her by her neck.**
 11 **Q.** And "her" is Bertha?
 12 **A. Yes.**
 13 **Q.** And when you grabbed her by the neck,
 14 were you willfully and unlawfully using force or
 15 violence?
 16 **A. Yes.**
 17 **Q.** Was that around the 17th day of
 18 September?
 19 **A. Yes.**
 20 **Q.** Was that in Ada County?
 21 **A. Yes.**
 22 THE COURT: Based on what you have told me,
 23 I will accept your guilty pleas. I will find that
 24 your guilty pleas are knowing and voluntary and
 25 that there is a factual basis.

19

1 May 15, 2015
 2 BOISE, IDAHO
 3
 4 THE COURT: State of Idaho vs.
 5 Roberto Ramos-Valencia, FE-14-131869.
 6 MR. NAUGLE: Brian Naugle for the State.
 7 MR. LOSCHI: Jon Loschl for the defendant,
 8 who is present.
 9 THE COURT: And if I can have the
 10 interpreter please identify yourself.
 11 THE INTERPRETER: Yes, Vanessa Bell from the
 12 Interpreter's Office.
 13 THE COURT: This is the time we have set for
 14 sentencing in this case.
 15 Is there any legal cause why we cannot
 16 go forward?
 17 MR. NAUGLE: None known to the State.
 18 MR. LOSCHI: No, Your Honor.
 19 THE COURT: I have reviewed the presentence
 20 materials dated May 7, 2015. That includes the
 21 GAIN and the mental health screening.
 22 Did the parties receive and review
 23 those same materials?
 24 MR. NAUGLE: Yes, Your Honor, the State did.
 25 MR. LOSCHI: Yes, Your Honor.

18

1 We will set this over for sentencing.
 2 May 15th, 9 o'clock in the morning.
 3 And I'll return the amended information
 4 to the prosecutor. Thank you, Mr. Naugle.
 5 MR. NAUGLE: Thank you.
 6 MS. OWENS: Thank you, Your Honor.
 7 THE COURT: Thank you, Mr. Ramos-Valencia.
 8 THE DEFENDANT: Thank you.
 9 (The proceedings concluded.)
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1 THE COURT: Mr. Ramos-Valencia, did you have
 2 a chance to review the presentence report?
 3 THE DEFENDANT: Yes.
 4 THE COURT: Did you have a chance to have an
 5 interpreter assist you in looking at that?
 6 THE DEFENDANT: Could you repeat the
 7 question, please?
 8 THE COURT: Did an interpreter assist you in
 9 looking at the presentence report?
 10 THE DEFENDANT: Yes, yes.
 11 THE COURT: And this morning, an interpreter
 12 is talking to you.
 13 Are you having any difficulty
 14 understanding her?
 15 THE DEFENDANT: No, not at all.
 16 THE COURT: Argument from the State?
 17 MR. NAUGLE: Your Honor, I also have some
 18 evidence I would like to provide the Court in the
 19 nature of photographs.
 20 THE COURT: I'll note, for the record, that
 21 you did show those photographs to the defendant
 22 and to his attorney.
 23 MR. NAUGLE: I have marked them as State's
 24 Exhibit Nos. 1 through 4. And I'll refer to them
 25 briefly in my argument.

21

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1 This was a case of aggravated battery.
 2 I'll note first, for the record, that the victim
 3 in this case -- there are actually two victims,
 4 Eldred Sanchez and Bertha Quiros. I have been in
 5 good contact with Eldred. And Mr. Sanchez,
 6 Eldred, is the victim of the aggravated battery in
 7 this case. And he is not here today.

8 And he's not here today -- you know, I
 9 tried to talk Eldred into coming. And it was
 10 difficult to do that. He is -- I would describe
 11 him as very, very traumatized by this event. And
 12 I think that the vibe that I got from him and when
 13 I talked to him and we went over this case, we
 14 went over the plea agreement in the case, we
 15 talked about the sentencing hearing, I tried
 16 really hard to talk him into coming. And,
 17 ultimately, he said he would think about it. And
 18 then he didn't call me back.

19 But I want to let the Court know that I
 20 don't get the sense from Eldred that he's not here
 21 today because he doesn't think that this was a big
 22 deal. I think that he is really, really afraid of
 23 having to relive any of this. And I think that
 24 this was a really, really traumatic event for him.
 25 And he just can't come back to it, is where he's

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1 meant by that, in the statement to the PSI and
 2 statements to police, was that he didn't want them
 3 talking and laughing. That's what he didn't want.
 4 He didn't like them talking and laughing and
 5 joking.

6 They did that morning, as they were
 7 working on their normal duties at the McDonald's,
 8 very early in the morning on that day. And the
 9 defendant's response to that was to take out a
 10 small folding knife and just stab Eldred with it.
 11 Eldred never really saw this coming until it
 12 happened.

13 And you can see in the video in this
 14 case, the defendant sort of comes around the
 15 corner, and he's there, taking out the knife out
 16 of his back pocket. You see him come around the
 17 corner. You see him take out the knife. And it's
 18 not as though there's a confrontation that
 19 precedes the taking out of the knife and stabbing
 20 of Eldred. There is nothing that would lead up to
 21 that.

22 He comes around the corner, and he's
 23 there. He ultimately stabs him with it in the
 24 abdomen, chest, and arm. He gets him in the arm,
 25 Eldred's arm, as he's trying to block the stabs to

1 at. So I want to note that that is my feeling
 2 about why Mr. Sanchez is not here.

3 The State is seeking restitution in
 4 this case in the amount of \$60,604.96. And that
 5 is based in large part on medical costs to the
 6 County.

7 So the facts in this case go like this.
 8 During a regular morning shift at McDonald's,
 9 Mr. Ramos-Valencia, who worked at the McDonald's
 10 here in town with Eldred Sanchez and
 11 Bertha Quiros, they were on an ordinary, regular
 12 morning shift.

13 There's a little bit of history with
 14 the three of them. Mr. Ramos-Valencia had a
 15 romantic relationship, I guess, with Ms. Quiros.
 16 It's interesting to note that both Ms. Quiros and
 17 Mr. Sanchez, the victims in this case, both really
 18 downplay this romantic relationship, that I don't
 19 think either one of them saw that relationship as
 20 seriously as Mr. Ramos-Valencia did.

21 And so that morning when they went to
 22 work, Mr. Ramos-Valencia made it clear to them --
 23 at least according to them, he made it clear to
 24 them he wasn't going to put up with anything that
 25 morning and he was in a bad mood. And what he

1 his midsection. And then he stabbed him in the
 2 back, as Eldred, very literally, is running for
 3 his life.

4 Eldred, as you can see in the pictures,
 5 sustains serious wounds to his midsection, as well
 6 as his back, the stab wound to his lower chest.
 7 And that's the reason Exhibit No. 1 is in there
 8 and the reason I have given it to the Court. That
 9 particular stab wound missed Eldred's heart by
 10 like an inch. And the doctors advised him, and
 11 the medical personnel advised him, that if that
 12 hit his heart, it very likely would have been a
 13 wound that would have ended his life.

14 As it was, he sustained stab wounds
 15 that lacerated his liver, lacerated his diaphragm,
 16 and caused significant internal bleeding which
 17 required surgery to stop and repair. That's what
 18 you see with the stapling of his skin back
 19 together to close up the wounds that had to be
 20 created -- some of which had to be created to make
 21 those repairs.

22 The defendant, as well, suffered a
 23 serious cut to his finger during the stabbing of
 24 Eldred, presumably because he was holding the
 25 knife in a dagger-like posture. He wasn't holding

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1 it like you would regularly hold a knife to slice.
 2 He was holding it to stab. As he stabbed, it
 3 slipped and sliced his finger really, really bad.
 4 Of concern -- there are a number of
 5 concerns that the State has in this case. But of
 6 chief concern is the defendant's completely
 7 out-of-bounds, aggressive violence with very
 8 little, if any, provocation. This is a case that
 9 the State requires to -- or believes requires
 10 significant punishment, based on the seriousness
 11 of that violence, especially considering he did it
 12 in the light of nonexistent provocation.
 13 It's hard to conclude that the
 14 defendant wasn't actually trying to kill Eldred in
 15 this case. He stabs him a number of times in the
 16 chest. I think he would have stabbed him more in
 17 the midsection had he had the opportunity and
 18 Eldred wasn't blocking and fighting off and
 19 running away. And we can tell that by the fact
 20 that he gets stabbed in the back as he's running
 21 away.
 22 And perhaps what is -- you know, what
 23 really struck me as disturbing about this case
 24 when I read the presentence investigation's
 25 report, was the defendant's attitude towards this

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1 case.
 2 And while in the video you cannot see
 3 the actual stabbing take place, you see the
 4 initial talk which then happens behind some
 5 machinery that blocks your view. And then you see
 6 Eldred running away and the defendant chasing him.
 7 And so during this initial interview
 8 with police, there's no mention whatsoever of
 9 Eldred or Bertha picking on him or making fun of
 10 him for months prior, as you hear in the
 11 presentence report. It was all about jealousy, no
 12 mention of Eldred cussing at him or grabbing him
 13 in any way, as he mentioned in the presentence
 14 investigation.
 15 When he talks to the PSI writer, he
 16 describes a scenario where he is cussing at him
 17 and they start hitting each other. There are
 18 punches thrown before the knife is ever pulled.
 19 That is absolutely not true. The knife comes out
 20 before there is any contact between these two,
 21 verbally or otherwise. The knife is out as he
 22 comes around the corner. They aren't even
 23 engaged, in any way, before this knife was pulled
 24 out.
 25 So there's no question that the

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1 crime since this happened. Initially, when the
 2 defendant spoke to police, he took complete
 3 responsibility for this crime. And he didn't hold
 4 anything back. He admitted he did this because he
 5 was jealous. He described how he became crazy
 6 jealous.
 7 He says that he perceived this to be a
 8 romantic relationship between Bertha and Eldred,
 9 which they both adamantly deny and are both like,
 10 I don't know where that's coming from. I believe
 11 them when they deny that.
 12 He explained that when he got to work
 13 that day, he was in a poor mood. He didn't want
 14 them talking to each other. He explains that
 15 while they were talking and laughing, he became
 16 really mad. He pulled the knife out from his back
 17 pocket and proceeds to stab Eldred. He admits to
 18 holding the knife in a dagger-style position.
 19 And even says on the audio, he says,
 20 yeah, Eldred didn't do anything. He tried to
 21 defend himself. He tried to block punches -- or
 22 the stabs, as he was running away or right before
 23 running away. And that entire account, the
 24 account that the defendant initially gives police,
 25 is perfectly corroborated by the video in the

28

1 defendant's recollection of this during the PSI
 2 has significantly changed. There is no time prior
 3 to that knife coming out that there could have
 4 been an altercation.
 5 In addition, both Bertha and Eldred
 6 adamantly deny being engaged in anything but
 7 friendly banter. They weren't making fun of
 8 Mr. Ramos-Valencia. They weren't saying anything
 9 that would inflame or incite this kind of anger.
 10 I think mainly they were just joking around about
 11 the things they were doing at work.
 12 The defendant himself admits that it
 13 was talking and laughing, and he specifically
 14 warned Bertha and Eldred that they weren't to be
 15 doing that that day, because he doesn't engage in
 16 that. And that in itself, I think, gives an
 17 indication of how serious the thinking errors are
 18 for the defendant. For him to think that he has a
 19 right to tell two coworkers that they can't talk
 20 and laugh in his presence because it upsets him, I
 21 think it gives you an indication of how skewed his
 22 thinking is and how possessive and controlling he
 23 is and how angry he becomes when that possession
 24 and control becomes loose.
 25 And so the transformation from the

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1 person that is willing to take responsibility, to
 2 a person who actually justifies this level of
 3 violence by partly blaming his victims for talking
 4 and laughing and by fabricating a self-defense
 5 claim, gives the State very little confidence that
 6 the defendant is going to avoid this kind of
 7 conduct in the future.

8 I think the hallmark of somebody who is
 9 able to avoid this kind of conduct, after having
 10 done it, is somebody who is perfectly willing to
 11 take responsibility for the crime, understands
 12 what they have done is wrong, and commits very
 13 strongly not to do it again. And, initially, I
 14 thought that's what we had here. When he spoke to
 15 police, I thought Mr. Ramos-Valencia was in that
 16 category. After reading what he told the PSI
 17 writer, I don't believe that anymore.

18 And so the State believes that this is
 19 a case that requires a significant period of
 20 incarceration. I understand that the defendant is
 21 not in this country legally. That does not play
 22 into my analysis at all. I just don't consider
 23 that. I think that this is a serious crime that
 24 deserves serious punishment. And I don't -- I've
 25 not considered his legal status at all.

31

1 violent person.

2 He tells me that he was, indeed,
 3 arrested in 2003 for a domestic battery in
 4 Las Vegas. But it was dismissed, so it never
 5 resulted in a conviction.

6 He is -- when you sit across the table
 7 from him and talk to him and he can speak to a
 8 certain degree, I've been able to talk to him at
 9 times without an interpreter. He's a gentle guy,
 10 a family-oriented guy, a hard worker.

11 And he does not, I think, fully
 12 understand why he lost his mind on this particular
 13 occasion. When you read through his rendition of
 14 what happened, the defendant's version, I think
 15 some of it is lost in the communication back and
 16 forth. He doesn't feel like there's a defense to
 17 what he did or that he should have done it.

18 At the end of that page, he said, "I
 19 tried to fix things in the relationship with this
 20 guy. That's not the way to fix things." And what
 21 he's referencing, obviously, in talking to him, is
 22 stabbing Eldred.

23 His back story is there had been a
 24 history between the three of them. And he and
 25 Bertha -- and I think that she states this

1 I would ask that the Court impose a
 2 15-year prison sentence, with the first seven
 3 years fixed, the remaining eight years
 4 indeterminate. I would ask that the Court order
 5 the restitution. And that is all.

6 THE COURT: There is an unknown disposition
 7 from a domestic violence charge in 2003.

8 Do you have any more information on
 9 that?

10 MR. NAUGLE: I don't, Your Honor. That
 11 particular charge didn't even -- we didn't even
 12 see that on NCIC. So the first I learned of that
 13 was in the presentence investigation.

14 THE COURT: Thank you.

15 Mr. Loschi, I did not give you a chance
 16 to make any corrections to the PSI. I'm sure if
 17 you have those, you can make those during your
 18 argument.

19 MR. LOSCHI: I'll just address them in
 20 argument, Your Honor.

21 You know, what happened in this
 22 particular case shouldn't have happened, and also
 23 was completely out of character for Roberto.
 24 There's nothing in the PSI, really, to indicate
 25 this is the type of person he is, that he's a

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1 elsewhere in the discovery -- were at least
 2 talking about having a relationship. She was
 3 still married and living with her husband and her
 4 kids.

5 When we talked to her, we interviewed
 6 her, she denied they actually had begun a
 7 relationship. But they had talked about having a
 8 relationship. But the impression I got was that
 9 she was Catholic, very religious, and still with
 10 her husband. And as long as that was the -- she
 11 wasn't divorced, that that wasn't going to happen.

12 And so they were at least very close.
 13 And Eldred was a younger guy, came to work at the
 14 McDonald's about three months prior to this. He
 15 had been working there about two and a half years.
 16 And just, I guess, a personality clash that, I
 17 guess, Eldred joking around and the way that he
 18 spoke to people, Roberto viewed from the git-go as
 19 disrespectful. It put them at odds. They didn't
 20 get along.

21 And, eventually, Roberto felt like
 22 Eldred was kind of bullying him or picking on him,
 23 and didn't like that. And then also began to get
 24 jealous that he felt like Eldred was flirting with
 25 Bertha, sort of as part of this kind of picking on

APPENDIX B

37

1 they can decide, you know, if they're going to
2 make him do the full amount of time that he's
3 given, or if they're going to release him at some
4 point prior to just get on with immigration
5 proceedings.

6 You know, he -- things would seem to
7 indicate that if and when he gets out, that he's
8 not necessarily a danger of re-offending at this
9 age and has never had a thing occur like this. He
10 doesn't have substance abuse issues. He doesn't
11 appear to have mental health issues, anything that
12 requires medication. He has got a work ethic. He
13 seems to be responsible in a lot of other ways.

14 Clearly, I guess some equivalent, I
15 suppose, of domestic violence-type counseling or
16 relationship-type counseling, those sorts of
17 things, are what would need to be addressed with
18 him. But I'm not sure, given his language
19 difficulties and where we are in the system, if
20 that's ever going to happen.

21 So I can personally tell you that the
22 Roberto I have talked to on countless occasions is
23 a pretty meek, mild, gentle guy, comes across to
24 me, and has really committed an offense here out
25 of character.

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1 THE COURT: Thank you.

2 Mr. Ramos-Valencia, you have a right to
3 remain silent. You don't have to say anything,
4 but you have a right to speak. If there is
5 anything that you would like to say, this is your
6 time.

7 Is there anything that you would like
8 to say?

9 THE DEFENDANT: No.

10 THE COURT: Based upon your plea of guilty
11 on March 13, 2015, to aggravated battery, a
12 judgment of conviction will enter. I'm going to
13 impose a sentence of 15 years. The first seven of
14 those years will be fixed, with no possibility of
15 probation or parole, followed by eight years
16 indeterminate. You have credit for 241 days that
17 you have already served.

18 There is no fine. There is no public
19 defender reimbursement. There is court costs to
20 pay. In addition, I will order restitution in the
21 amount of \$60,604.96.

22 I recognize that this is a very severe
23 sentence. You came one inch away from killing
24 someone. And this sentence takes into
25 consideration the four factors that this court

38

1 He has been in custody since
2 December 14, 2014. I didn't add that up. But he
3 hasn't had any write-ups in the jail or any issues
4 in there.

5 Restitution, Judge, I think he already
6 knows restitution is not going to get paid. So I
7 suppose there's -- I would just object, I guess on
8 the grounds of his inability to pay restitution,
9 is one of the factors the Court has to consider.
10 But I don't have any argument with the figures or
11 the fact that it flows from the offense in this
12 case.

13 Thank you.

14 THE COURT: Mr. Loschi, in your argument,
15 you twice used the phrase that Mr. Ramos-Valencia
16 just lost his mind. At the same time, you argued
17 that there was no mental health concern at play.

18 Do you think that the Court needs a
19 mental health evaluation prior to sentencing?

20 MR. LOSCHI: No, Your Honor. I have talked
21 to him on many occasions in the jail with an
22 interpreter. And other than maybe a little
23 situational depression right now, he hasn't
24 demonstrated to me anything that would suggest
25 that he needs a mental health evaluation.

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1 must consider in sentencing: Rehabilitation,
2 protection of society, deterrence, and punishment.
3 Although a severe sentence, it is a much lesser
4 sentence than you would have if you had moved that
5 knife one inch over.

6 You have a right to appeal the Court's
7 sentence. Any appeal needs to be filed within
8 42 days of the date of the judgment. You have a
9 right to be represented by an attorney on appeal.

10 (The proceedings concluded.)

11 --o0o--