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State v. Chaput Appellant's Brief Dckt. 43624

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 43624
Plaintiff-Respondent,)	
)	JEROME COUNTY NO. CR 2015-1349
v.)	
)	
THOMAS B. CHAPUT,)	APPELLANT'S BRIEF
)	
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Thomas B. Chaput appeals from his judgment of conviction for one count of aggravated assault on a law enforcement officer. Mr. Chaput was found guilty following a jury trial and the district court imposed a sentence of ten years determinate, and the court retained jurisdiction. Mr. Chaput now appeals, and he asserts that the district court abused its discretion by imposing an excessive sentence.

Statement of the Facts & Course of Proceedings

On March 20, 2013, Jerome Police Officers were dispatched in response to a call of a domestic disturbance. (Presentence Investigation Report (*hereinafter*, PSI), p.3.)

Cynthia Gardner reported that Mr. Chaput had punched her before she was able to escape; she also advised the officers that Mr. Chaput had weapons, was suicidal, and she was concerned for his and the neighbors' safety. (PSI, p.3.)

After speaking with Ms. Gardner, officers responded to Mr. Chaput's residence, where they confronted him outside. (PSI, p.4.) When officers attempted to speak to Mr. Chaput, he told them to "bring SWAT" and he went inside. (PSI, p.4.) The officers made a forced entry. (PSI, p.4.) Mr. Chaput came out of the bedroom holding a rifle and he placed the barrel in his mouth. (PSI, p.4.) Once Mr. Chaput removed the barrel from his mouth, one of the officers deployed his taser, but it was not effective. (PSI, p.4.)

Mr. Chaput then moved back toward the bedroom and asked the officers if they wanted to see what "Army Rangers" were all about and asked if the officers wanted to be in a firefight. (PSI, p.4.) Mr. Chaput eventually put the rifle down and came out of the bedroom to call an attorney; at this point the officers subdued him. (PSI, p.4.)

Mr. Chaput was charged with domestic battery in the presence of a child, resisting and obstructing officers, three counts of aggravated assault on a law enforcement officer, and an enhancement for the use of a firearm or other deadly weapon while committing aggravated assault. (R., pp.69, 72.) The domestic battery charge was eventually dismissed. (R., p.242.) At trial, Mr. Chaput was found guilty of only one count of aggravated assault; he was found not guilty of the remaining charges and the enhancement. (R., p.314.)

The district court imposed a sentence of ten years fixed, and the court retained jurisdiction. (R., p.351.) Mr. Chaput appealed. (R., p.357.) He asserts that the district court abused its discretion by imposing an excessive sentence.

ISSUE

Did the district court abuse its discretion when it imposed a sentence of ten years fixed upon Mr. Chaput following his conviction for aggravated assault?

ARGUMENT

The District Court Abused Its Discretion When It Imposed A Sentence Of Ten Years Fixed Upon Mr. Chaput Following His Conviction For Aggravated Assault

Mr. Chaput asserts that, given any view of the facts, his sentence of ten 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. Chaput does not allege that his sentence exceeds the statutory maximum. Accordingly, in order to show an abuse of discretion, Mr. Chaput 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)).

Regarding the instance offense, Mr. Chaput acknowledged that he had consumed four to six 16-ounce beers throughout the evening and had taken approximately 80 valium pills throughout the day in a suicide attempt. (PSI, p.6.) When asked how he felt about the instant offense, he stated, “stupid. All it does is hurts my family and myself[.]I need to think before doing it. This taught me a great lesson. (PSI, p.6.)

Mr. Chaput also addressed the district court at the sentencing hearing. He stated,

I would like to thank you, Your Honor, and the court for your time and energy that you guys did for me. I appreciate that, and I would like to apologize to all the officers that were involved. It really got blown out of hand, and I’m really sorry to them that they had to deal with this situation.

I’ve been in jail for six months, and it’s been the longest six months of my life, longest I’ve ever been away from my kids. I know you would never see me here ever again in front of you for any charges. I’ve really learned my lesson, and all I want to do is go home and be with my kids and start a new life and get the help that I do need. I hope that you would help me get the help that I need. That would be it.

(Sent. Tr., p.38, L.21 – p.39, L.8.)

Counsel for Mr. Chaput requested that Mr. Chaput be placed on probation. (Sent. Tr., p.30, Ls.10-12.) Counsel emphasized that although Mr. Chaput was 38 years old, this case represented his first felony conviction. (Sent. Tr., p.30, Ls.22-25.)

He is the father of seven children and he loves and misses his children. (Sent. Tr., p.30, L.24 – p.31, L.5.) Counsel noted that one of Mr. Chaput's daughters wrote a letter indicating that Mr. Chaput was a kind, caring individual and had "the best personality and sense of humor." (Sent. Tr., p.32, Ls.1-11.) Counsel agreed that his interactions with Mr. Chaput had improved every day. (Sent Tr., p.31, Ls.24-25.)

Further, Mr. Chaput had made great progress while incarcerated during trial. "Not once has he been a disciplinary problem. He's gotten along with both staff and inmates." (Sent. Tr., p.32, Ls.14-18.) Mr. Chaput was made a trustee and an inmate worker at the Jerome County Jail, he had been involved in the RUI program for five months, had been going to church and had been reading the Bible. (Sent. Tr., p.32, Ls.17-25.) Mr. Chaput was not a violent man, a cop hater, or a wife beater. (Sent. Tr., p.32, Ls.23-25.) Even Ms. Gardner's father stated that Mr. Chaput had been beat down over the past 20 years. (Sent. Tr., p.33, Ls.4-10.)

Counsel also emphasized that Mr. Chaput had depression and mental health issues, and "this is not the first incident involving law enforcement because it's not the first suicide attempt." (Sent. Tr., p.31, Ls.7-10.) It was either Mr. Chaput's second or third suicide attempt. (Sent. Tr., p.31, Ls.7-10.) Counsel noted that Mr. Chaput acknowledged his need for psychiatric counseling and the need for monitoring of medication that he needs. (Sent. Tr., p.35, Ls.16-21.) Mr. Chaput's medication had been monitored while in the Jerome County Jail this had really helped his situation. (Sent. Tr., p.35, Ls.16-24.)

Mr. Chaput submits that, considering his remorse, his acceptance of responsibility, his acknowledgment of his mental health issues, and his desire to be with

and support his family, the district court abused its discretion in imposing a sentence of ten years fixed.

CONCLUSION

Mr. Chaput 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 13th day of June, 2016.

_____/s/_____
JUSTIN M. CURTIS
Deputy State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 13th day of June, 2016, 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:

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_____/s/_____
EVAN A. SMITH
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JMC/eas