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State v. Woodbridge Appellant's Brief Dckt. 43664

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,)	NO. 43664
)	
v.)	KOOTENAI COUNTY
)	NO. CR 2015-5921
JACK LARRY WOODBRIDGE,)	
)	APPELLANT'S BRIEF
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Jack Larry Woodbridge was sentenced to a unified term of seven years, with three years fixed, after pleading guilty to burglary. He contends the district court abused its discretion when it imposed this sentence in light of the mitigating factors that exist in this case.

Statement of Facts and Course of Proceedings

On April 18, 2015, Mr. Woodbridge was arrested while attempting to steal a used tire, valued at \$2.00, from an unlocked semi-trailer near a tire store. (R., pp.5-6, 13.) Mr. Woodbridge was charged by Information with one count of burglary and one count

of attempted petit theft. (R., pp.35-37.) The State alleged that Mr. Woodbridge had two prior felony convictions and was thus a persistent violator within the meaning of Idaho Code § 19-2514. (R., p.36.) Mr. Woodbridge entered into a plea agreement with the State, pursuant to which he agreed to plead guilty to burglary. (R., p.38.) In return, the State agreed to dismiss the charge of petit theft and the persistent violator enhancement. (R., p.38.) The State also agreed to recommend that Mr. Woodbridge be released on his own recognizance prior to sentencing and be sentenced to a term of probation. (5/19/15 Tr., p.5, Ls.4-12) The district court accepted Mr. Woodbridge's guilty plea and released Mr. Woodbridge on his own recognizance prior to sentencing. (5/19/15 Tr., p.16, Ls.12-16, p.20, Ls.14-15; R., pp.38, 54.)

Mr. Woodbridge did not appear for a scheduled sentencing hearing. (R., p.46.) At the continued sentencing hearing, the State recommended a unified sentence of seven years, with three years fixed, and with a period of retained jurisdiction. (9/8/15 Tr., p.10, L.25 – p.11, L.5.) The district court followed the State's recommendation. It sentenced Mr. Woodbridge to a unified term of seven years, with three years fixed, and retained jurisdiction. (9/8/15 Tr., p.18, Ls.10-14.) The judgment was entered on September 9, 2015. (R., pp.56-58.) Mr. Woodbridge filed a timely notice of appeal on October 16, 2015. (R., pp.61-64.)

On January 22, 2016, the district court held a jurisdictional review hearing, at which it considered the Addendum to the Presentence Investigation Report ("APSI"), which recommended that Mr. Woodbridge be placed on probation.¹ The district court

¹ Contemporaneously with the filing of this Brief, Mr. Woodbridge is filing a Motion to Augment the Clerk's Record to include copies of the APSI, dated January 7, 2016; the

followed this recommendation, suspended Mr. Woodbridge's sentence, and placed him on probation for a period of three years, commencing January 22, 2016.

ISSUE

Did the district court abuse its discretion when it sentenced Mr. Woodbridge to a unified term of seven years, with three years fixed, in light of the mitigating circumstances in this case?

ARGUMENT

The District Court Abused Its Discretion When It Sentenced Mr. Woodbridge To A Unified Term Of Seven Years, With Three Years Fixed, In Light Of The Mitigating Circumstances In This Case

Mr. Woodbridge asserts that, given any view of the facts, his unified sentence of seven years, with three years fixed, is excessive. Where, as here, the sentence imposed by the district court is within statutory limits, "the appellant bears the burden of demonstrating that it is a clear abuse of discretion." *State v. Miller*, 151 Idaho 828, 834 (2011) (quoting *State v. Windom*, 150 Idaho 873, 875 (2011)). "When a trial court exercises its discretion in sentencing, 'the most fundamental requirement is reasonableness.'" *Id.* (quoting *State v. Hooper*, 119 Idaho 606, 608 (1991)). "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." *Id.* (citation omitted). "When reviewing the reasonableness of a sentence this Court will make an independent examination of the record, 'having

court minutes of the jurisdictional review hearing held on January 22, 2016; and the Judgment on Retained Jurisdiction, which was filed on January 25, 2016.

regard to the nature of the offense, the character of the offender and the protection of the public interest.” *Id.* (quoting *State v. Shideler*, 103 Idaho 593, 594 (1982)).

The most important factor for this Court to consider is the nature of the offense. Mr. Woodbridge was convicted of burglary because he attempted to steal a used tire, valued at \$2.00, from an unlocked semi-trailer near a tire store. (R., pp.5-6, 13.) He explained at his sentencing hearing that he was driving his truck early in the morning and “a tire was going out.” (9/8/15 Tr., p.5, Ls.15-17.) He said, “I knew I should’ve waited until the morning, but it was four o’clock and I was just trying to get back to my dad’s to get my kid.” (9/8/15 Tr., p.5, Ls.22-25.) Mr. Woodbridge’s conduct meets the statutory definition of burglary, but it has to be one of the least concerning ways of committing the offense. Mr. Woodbridge should not have entered the unlocked semi-trailer with the intent to steal a used tire—that is clear—but it is equally clear that his conduct does not warrant a unified sentence of seven years, with three years fixed.

This Court must also consider Mr. Woodbridge’s character and the protection of the public interest. Mr. Woodbridge sought to be placed on probation largely so that he could care for his young son. (9/8/15 Tr., p.14, Ls.13-24.) He explained to the district court that he had a job at a hotel that provided him with free room and board, and there was a childcare center “right down the road.” (9/8/15 Tr., p.6, Ls.9-16.) The State would have recommended that Mr. Woodbridge be placed on probation but for the fact that he failed to attend the first sentencing hearing. Mr. Woodbridge explained to the district court that he did not attend the first sentencing hearing because there was marijuana being used at the residence where he was staying, and he had to leave in a hurry with his son. (9/8/15 Tr., p.12, Ls.13-25.) The first sentencing hearing was

scheduled for July 2, 2015, and the continued hearing was held on September 8, 2015. (R., pp.46, 51-53.) It seems unfortunate that Mr. Woodbridge's conduct, for which he had a reasonable explanation and which resulted in a delay of just over two months, had such a large impact on his sentence.

Mr. Woodbridge did not pose a risk to the public, and his offense was not violent in any respect. In light of the mitigating factors that exist in this case, and notwithstanding the aggravating factors, the district court abused its discretion when it sentenced Mr. Woodbridge to a unified term of seven years, with three years fixed.

CONCLUSION

Mr. Woodbridge respectfully requests that this Court reduce his sentence as it deems appropriate. Alternatively, he requests that this Court remand this case to the district court for a new sentencing hearing, with instructions to impose a lesser sentence.

DATED this 17th day of February, 2016.

_____/s/_____
ANDREA W. REYNOLDS
Deputy State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 17th day of February, 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:

JACK LARRY WOODBRIDGE
INMATE #115951
NICI
236 RADAR ROAD
COTTONWOOD ID 83522

LANSING L HAYNES
DISTRICT COURT JUDGE
E-MAILED BRIEF

AMANDA R MONTALVO
KOOTENAI COUNTY PUBLIC DEFENDER
E-MAILED BRIEF

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CRIMINAL DIVISION
E-MAILED BRIEF

_____/s/_____
EVAN A. SMITH
Administrative Assistant

AWR/eas