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State v. Heisley Respondent's Brief Dckt. 43716

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LAWRENCE G. WASDEN
Attorney General
State of Idaho
P.O. Box 83720
Boise, Idaho 83720-0010
(208) 334-4534

PAUL R. PANTHER
Deputy Attorney General
Chief, Criminal Law Division

LORI A. FLEMING
Deputy Attorney General

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 43716
Plaintiff-Respondent,)	
)	Ada County Case No.
v.)	CR-2015-4579
)	
ERIC EUGENE HEISLEY,)	
)	RESPONDENT'S BRIEF
Defendant-Appellant.)	
_____)	

Issue

Has Heisley failed to establish that the district court abused its discretion by imposing a unified sentence of five years, with three and one-half years fixed, upon his guilty plea to aggravated assault?

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

Heisley pled guilty to aggravated assault (amended from aggravated battery) and the district court imposed a unified sentence of five years, with three and one-half years

fixed. (R., pp.43-44, 63-65, 75-78.¹) Heisley filed a notice of appeal timely from the judgment of conviction. (R., pp.80-82.)

Heisley asserts his sentence is excessive in light of his “acknowledgment that he had been on the wrong path and his desire to better himself.” (Appellant’s brief, pp.3-4.) 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

¹ The district court’s written judgment contains a clerical error indicating that Heisley pled guilty to the original charge of aggravated battery. (R., pp.75-76.) However, it is clear from the record that Heisley in fact pled guilty to the amended charge of aggravated assault. (R., pp.43-44, 63-65; Tr., p.1, Ls.19-21; p.14, Ls.17-21; p.17, Ls.6-11.) It is also clear, based on the district court’s oral pronouncement at the sentencing hearing, that the court sentenced Heisley for the crime of aggravated assault and not based on a mistaken belief that it was sentencing Heisley for aggravated battery. (Tr., p.20, Ls.12-24; p.28, Ls.11-13.) Where, as here, there is a disparity between the oral pronouncement and written order, the oral pronouncement controls. See, e.g., State v. Watts, 131 Idaho 782, 786, 963 P.2d 1219, 1223 (Ct. App. 1998). Pursuant to I.C.R. 36, the district court may correct clerical mistakes in judgments at any time.

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 aggravated assault is five years. I.C. § 18-906. The district court imposed a unified sentence of five years, with three and one-half years fixed, which falls well within the statutory guidelines. (R., pp.75-78.) Heisley's sentence is appropriate in light of the seriousness of the offense, the harm done to the victim, Heisley's incessant criminal offending, his refusal to abide by institutional rules and the terms of community supervision, and his failure to rehabilitate or be deterred despite numerous prior treatment opportunities and legal sanctions.

Heisley's criminal record commences when he was just 10 years of age and was adjudicated for grand theft and burglary. (PSI, pp.1, 4.²) In the following years, Heisley racked up additional juvenile adjudications for aggravated battery, two more counts of burglary, a second grand theft, trespass, and two adjudications for minor in possession of alcohol. (PSI, pp.5-7.) He also violated his juvenile probation on at least three separate occasions. (PSI, pp.5-6.) Heisley reported that he was committed to the department of juvenile corrections "near/between the ages 12/13, 14-16; and 17," and that he was "'on the run' from probation violations(s) when he turned 18." (PSI, p.10.) Between the ages of 18 and 23, Heisley was convicted of forgery, providing false information to an officer, felony eluding a police officer, grand theft by possession of stolen property, and unlawful entry. (PSI, pp.7-10, 271-74.) He repeatedly violated his probation and parole and completed three separate rider programs. (PSI, pp.7-10.)

² PSI page numbers correspond with the page numbers of the electronic file "Heisley 43716 psi.pdf."

While incarcerated in the penitentiary between 2012 and 2014, Heisley incurred numerous DOR's, corrective actions, and incident reports. (PSI, pp.142-43, 154.)

Heisley was incarcerated at ISCC when he committed the instant offense in July 2014, wherein he attacked another inmate, Courtney Goff, without apparent provocation. (PSI, pp.45, 61-62, 66.) Correctional officers "heard [a] fight start" and "saw Courtney on the ground with [Heisley] standing above him. [Heisley] then 'fully mounted' Courtney and began striking him repeatedly in the head and face." (PSI, p.45.) Courtney "did not fight back" and eventually lost consciousness; however, Heisley continued "repeatedly punching him in the face." (PSI, pp.45, 60.) Officers reported that "Courtney's head was bouncing off the ground" and "there was blood everywhere." (PSI, p.60.) The officers ordered Heisley to stop; however, Heisley "didn't seem to care what [the officers were] saying" and disregarded the orders. (PSI, p.60.) The officers "sprayed [Heisley] twice with pepper spray, but he continued to strike Courtney" and the officers had to "forcibly remove[] [Heisley] from on top of Courtney." (PSI, pp.45, 60.) Courtney was transported to the hospital, and subsequent medical reports stated:

... Courtney had multiple lacerations across his neck, swelling of the left jaw and face, multiple contusions to the back of a hand, a deep laceration above his left eyebrow, his entire mouth was swollen, there was a hole through his lower left lip, and bruising behind and around his ears. There were sutures put above his left eye, the bridge of the nose, and several on both lips, for a total of 23 sutures. His left jaw and eyelid was swollen, and he had a fracture of the nose. His lips were swollen and bruised and he had blurry vision. ... [T]here was a commuted fracture of the anterior nasal spine, and a fracture of the right nasal bone.

(PSI, pp.45-46.)

At sentencing, the state argued, “I think it’s important ... both to the individuals who are housed [in the correctional facility] and the folks who work at the facility, that when such violence is meted out by individuals it is met with significant punishment.” (Tr., p.24, L.25 – p.25, L.4.) Likewise, the district court stated, “[T]his violent, unexpected behavior the institution is not going to put up with. I’m not going to put up with, Mr. Heisley. This guy didn’t do anything to end up in the hospital by you.” (Tr., p.30, Ls.8-11.) The district court considered all of the relevant information and imposed a reasonable sentence. The sentence imposed is appropriate in light of the vicious nature of the offense, the severe harm done to the victim, Heisley’s ongoing criminal offending and his refusal to abide by institutional rules, and his failure to rehabilitate or be deterred. Given any reasonable view of the facts, Heisley has failed to establish an abuse of sentencing discretion.

Conclusion

The state respectfully requests this Court to affirm Heisley’s conviction and sentence.

DATED this 13th day of June, 2016.

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

VICTORIA RUTLEDGE
Paralegal

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 13th day of June, 2016, served a true and correct copy of the attached RESPONDENT'S BRIEF by emailing an electronic copy to:

JASON C. PINTLER
DEPUTY STATE APPELLATE PUBLIC DEFENDER

at the following email address: briefs@sapd.state.id.us.

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