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State v. Helburn Appellant's Brief Dckt. 43830

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 43830
Plaintiff-Respondent,)	
)	ADA COUNTY NO. CR 2015-6072
v.)	
)	
NATHAN NICHOLAS HELBURN,)	APPELLANT'S BRIEF
)	
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Nathan Nicholas Helburn appeals from his judgment of conviction for battery against health care workers. Mr. Helburn pleaded guilty and the district court imposed a sentence of one year determinate, to run consecutive to a sentence Mr. Helburn was already serving. Mr. Helburn 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, 2015, a correctional officer at the Idaho Maximum Security Institution reported that Daniel Ramirez, a licensed practical nurse at the institution,

responded to a request for medication for Mr. Helburn, who was housed at the institution. (Presentence Investigation Report (*hereinafter*, PSI), p.8.)¹ According to the correctional officer, he opened the port door so that Mr. Ramirez could distribute the medication; Mr. Helburn then allegedly grabbed Mr. Ramirez's wrist and pulled it toward him. (PSI, p.8.) Mr. Ramirez pulled his hand away from Mr. Helburn's grip. (PSI, p.8.) According to the correctional officer, Mr. Helburn then stated that he should have pulled Mr. Ramirez's wrist all the way so that he could break his arm. (PSI, p.8.)

Mr. Helburn was charged with battery against health care workers for the incident involving Mr. Ramirez. (R., p.29.) Mr. Helburn pleaded guilty and the district court imposed a sentence of one year determinate, to be served consecutive to the sentence Mr. Helburn was already serving. (R., p.72.) Mr. Helburn appealed. (R., p.6.) 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 one year determinate upon Mr. Helburn following his plea of guilty to battery against health care workers?

ARGUMENT

The District Court Abused Its Discretion When It Imposed A Sentence Of One Year Determinate Upon Mr. Helburn Following His Plea Of Guilty To Battery Against Health Care Workers

Mr. Helburn asserts that, given any view of the facts, his sentence of one year determinate to run consecutive to his current sentence is excessive. Where a

¹ Citations to the Presentence Materials are to the electronic file entitled Helburn 43830 psi.pdf.

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. Helburn does not allege that his sentence exceeds the statutory maximum. Accordingly, in order to show an abuse of discretion, Mr. Helburn 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)).

At the sentencing hearing, counsel for Mr. Helburn noted that Mr. Helburn was 39 years old and this case was his second felony conviction. (Tr., p.22, Ls.18-25.) Mr. Helburn wanted to express his frustration with the lack of medical treatment he had been getting while incarcerated. (Tr., p.22, Ls.18-25.) However, “ultimately he’s taken accountability for his action and he harbors no ill will for the victim in this case.” (Tr., p.23, Ls.1-5.)

Mr. Helburn suffers from arthritis, lupus, leukemia, and a bilateral shoulder injury. (Tr., p.23, Ls.10-16.) Further, he had been diagnosed with bipolar disorder, and he receives treatment for mental health issues. (Tr., p.23, Ls.14-16.) Counsel knew from his visits with Mr. Helburn that he was often in extreme discomfort and had difficulty sitting and saying in one place. (Tr. p.23, Ls.17-24.) But in spite of this, Mr. Helburn was “cordial and has been reasonable with me as a client through the case and I do appreciate that.” (Tr., p.23, Ls.21-25.) Counsel emphasized that Mr. Helburn was an intelligent man and “understands what he did was not right. He understands that that was not the mechanism to address the issue he has.” (Tr., p.24, Ls.1-7.)

Mr. Helburn addressed the district court at sentencing. He informed the court that, after the current incident, he had been taking a mood stabilizer and had been a model inmate. (Tr., p.25, Ls.7-12.) Mr. Helburn noted that it took the institution five and one-half years to give him a mood stabilizer. (Tr., p.25, Ls.7-12.) He also informed that he had asked Mr. Ramirez for a sedative about 15 times. (Tr., p.25, Ls.14-20.)

Considering that Mr. Helburn accepted responsibility for his actions and harbored no ill will toward Mr. Ramirez, that he had become a model inmate since being placed on mood stabilizers, and that he understood that what he did was wrong and not the way to deal with his frustrations about medical treatment, Mr. Helburn respectfully submits that the district court abused its discretion by imposing a sentence of one year determinate.

CONCLUSION

Mr. Helburn 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 21st day of July, 2016.

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

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 21st day of July, 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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E-MAILED BRIEF

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_____/s/_____
EVAN A. SMITH
Administrative Assistant

JMC/eas