

9-27-2016

State v. Wacaster Appellant's Brief Dckt. 44022

Follow this and additional works at: https://digitalcommons.law.uidaho.edu/not_reported

Recommended Citation

"State v. Wacaster Appellant's Brief Dckt. 44022" (2016). *Not Reported*. 3198.
https://digitalcommons.law.uidaho.edu/not_reported/3198

This Court Document is brought to you for free and open access by the Idaho Supreme Court Records & Briefs at Digital Commons @ UIdaho Law. It has been accepted for inclusion in Not Reported by an authorized administrator of Digital Commons @ UIdaho Law. For more information, please contact annablaine@uidaho.edu.

ERIC D. FREDERICKSEN
Interim State Appellate Public Defender
I.S.B. #6555

REED P. ANDERSON
Deputy State Appellate Public Defender
I.S.B. #9307
P.O. Box 2816
Boise, ID 83701
(208) 334-2712

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 44022
Plaintiff-Respondent,)	
)	BANNOCK COUNTY NO. CR 2015-544
v.)	
)	
BRAD LEE WACASTER,)	APPELLANT'S BRIEF
)	
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Pursuant to a binding plea agreement, Brad Lee Wacaster entered a plea of guilty to aggravated assault with an enhancement for using a deadly weapon in the commission of the offense. The district court imposed a unified sentence of sixteen years, with six years fixed, but suspended the sentence and placed Mr. Wacaster on probation for fifteen years. Mr. Wacaster timely appealed. Mindful of the plea agreement, he asserts that the district court abused its discretion when it placed him on probation for fifteen years.

Statement of Facts and Course of Proceedings

In January of 2015, officers were dispatched to the Wacaster residence after a juvenile called 911 and reported a physical altercation between her mother and Mr. Wacaster. (Presentence Report (*hereinafter*, PSI), p.4.)¹ When the officers arrived, Mr. Wacaster invited them in and explained that he had been in a domestic dispute with his wife, but everything was fine. (PSI, p.4.) When the officers interviewed Ms. Wacaster's children, who had witnessed the altercation, they said that Mr. Wacaster pinned Ms. Wacaster against the wall with his forearms against her throat, and they both tried to step in to separate them. (PSI, p.4.) One of the children said that Ms. Wacaster got away from Mr. Wacaster and went into the kitchen, but Mr. Wacaster followed her, pulled a butcher knife out and said "Do want me to knock you out with this?" (PSI, p.4.) Ms. Wacaster said that Mr. Wacaster also tried to stop her daughter from calling the police by taking her cell phone, but her daughter eventually ran outside with her phone. (PSI, p.4.) The officers later arrested Mr. Wacaster for aggravated assault. (PSI, p.4.)

Mr. Wacaster was initially charged with one count of attempted strangulation and one count of aggravated assault with a deadly weapon enhancement. (R., pp.63-65.) Mr. Wacaster entered into a binding Idaho Criminal Rule 11 plea agreement with the State wherein he agreed to plead guilty to aggravated assault, with a deadly weapon enhancement, and the State would dismiss the attempted strangulation charge. (Tr., p.38, Ls.10-21.) Additionally, the district court would place Mr. Wacaster on probation but have discretion to determine the length of probation, and the length of the

¹ All references to the PSI and its attachments refer to the 65-page electronic document.

underlying sentence. (R., pp.104-106.) The district court followed the agreement and imposed a sentence of sixteen years, with six years fixed, but suspended the sentence and place Mr. Wacaster on probation for fifteen years. (R., p.131.) Subsequently, Mr. Wacaster timely appealed from the district court's judgment of conviction. (R., pp.142-144.)

ISSUE

Mindful of the plea agreement in this case, did the district court abuse its discretion when it placed Mr. Wacaster on probation for fifteen years?

ARGUMENT

The District Court Abused Its Discretion When It Placed Mr. Wacaster On Probation For Fifteen Years

Based on the facts of this case, Mr. Wacaster's fifteen-year term of probation is excessive because it is not necessary to achieve the goals of sentencing. When there is a claim that the sentencing court imposed an excessive sentence, the appellate court will conduct an independent examination 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).

Independent appellate sentencing examinations are based on an abuse of discretion standard. *State v. Burdett*, 134 Idaho 271, 276 (Ct. App. 2000). When a sentence is unreasonable based on the facts of the case, it is an abuse of discretion. *State v. Nice*, 103 Idaho 89, 90 (1982). Unless it appears that the sentence was necessary "to accomplish the primary objective of protecting society and to achieve any or all of the related goals of deterrence, rehabilitation or retribution applicable to a given case," the sentence is unreasonable. *State v. Toohill*, 103 Idaho 565, 568

(Ct. App. 1982). Accordingly, if the sentence is excessive, “under any reasonable view of the facts,” because it is not necessary to achieve these goals, it is unreasonable and therefore an abuse of discretion. *Id.*

Mindful that the district court followed the terms of the plea agreement, Mr. Wacaster asserts that the district court abused its discretion when it placed him on probation for fifteen years because there was mitigating information that the district failed to adequately consider. In particular, Mr. Wacaster accepted responsibility and expressed sincere remorse for this offense. He said that he was extremely sorry for his actions and knew there were better ways to resolve a conflict. (PSI, p.6.) Similarly, at the sentencing hearing, he said, “I realize I made a mistake. I made a poor choice at a time in my life that, you know, has caused some damage, and unfortunately, I have to pay a consequence for that because, you know, I committed that.” (Tr., p.65, Ls.5-9.) Finally, he said, “I am pleading guilty in respect to the victims. They do not need to relive the fear they felt, especially the children. Under no circumstances should anyone fear for their safety and I realize my actions created that . . . I was never going to harm them and realize now I have mentally. I am deeply sorry for my actions.” (PSI, pp.15 16.)

Mr. Wacaster asserts that the district court did not adequately consider this information and therefore abused its discretion when it placed him on probation for fifteen years. He asserts that, in light of the underlying sentence, a shorter period of probation would still ensure that society was protected and would also serve as a strong deterrent and provide appropriate retribution.

CONCLUSION

Mr. Wacaster respectfully requests that this Court reduce the length of his term of probation as it deems appropriate.

DATED this 27th day of September, 2016.

/s/
REED P. ANDERSON
Deputy State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 27th day of September, 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:

BRAD LEE WACASTER
219 W SIPHON RD APT 3
POCATELLO ID 83202

ROBERT C NAFTZ
DISTRICT COURT JUDGE
E-MAILED

KENT V REYNOLDS
BANNOCK COUNTY PUBLIC DEFENDER
E-MAILED

KENNETH K JORGENSEN
DEPUTY ATTORNEY GENERAL
CRIMINAL DIVISION
E-MAILED

/s/
MAGALI CEJA
Administrative Assistant

RPA/mc