

1-17-2017

## State v. Stefani Respondent's Brief Dckt. 44435

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IN THE SUPREME COURT OF THE STATE OF IDAHO

|                       |   |                     |
|-----------------------|---|---------------------|
| STATE OF IDAHO,       | ) |                     |
|                       | ) | NO. 44435           |
| Plaintiff-Respondent, | ) |                     |
|                       | ) | Ada County Case No. |
| v.                    | ) | CR-2013-15126       |
|                       | ) |                     |
| COREY EUGENE STEFANI, | ) |                     |
|                       | ) | RESPONDENT'S BRIEF  |
| Defendant-Appellant.  | ) |                     |
| _____                 | ) |                     |

Issue

Is Stefani's sentencing challenge barred by the doctrine of invited error?

Stefani's Sentencing Challenge Is Barred By The Doctrine Of Invited Error

Stefani pled guilty to felony destruction of evidence and the district court imposed a unified sentence of four years, with two years fixed, and retained jurisdiction. (R., pp.189-93.) Following the period of retained jurisdiction, the district court suspended Stefani's sentence and placed him on supervised probation for four years. (R., pp.199-203.)

Approximately four months later, the state filed a motion for probation violation alleging that Stefani had violated the conditions of his probation by failing to report for supervision on five separate occasions, changing residences without permission on several occasions, using methamphetamine and marijuana, being discharged from MRT Aftercare and from substance abuse treatment for failure to attend, absconding supervision, and failing to pay his court-ordered financial obligations. (R., pp.210-13.) Stefani admitted that he violated the conditions of his probation by using methamphetamine, being discharged from substance abuse treatment for failure to attend, and absconding supervision, and the state dismissed the remaining allegations. (R., p.241.) At the disposition hearing for Stefani's probation violation, Stefani requested that the district court revoke his probation and order his underlying sentence executed. (Tr., p.14, Ls.14-20.) The district court granted Stefani's request and revoked his probation and ordered the underlying sentence executed. (R., pp.242-45.) Stefani filed a notice of appeal timely from the district court's order revoking probation. (R., pp.247-49.)

Mindful of the doctrine of invited error and that he "specifically asked the district court to revoke his probation and execute his sentence in this case," Stefani nevertheless asserts that the district court abused its discretion by revoking his probation and ordering his underlying sentence executed, because he completed programs while on his rider before he "slipped up on probation." (Appellant's brief, p.4.) Stefani's claim of an abuse of sentencing discretion is barred by the doctrine of invited error.

A party is estopped, under the doctrine of invited error, from complaining that a ruling or action of the trial court that the party invited, consented to or acquiesced in was error. State v. Carlson, 134 Idaho 389, 402, 3 P.3d 67, 80 (Ct. App. 2000). The purpose of the invited error doctrine is to prevent a party who “caused or played an important role in prompting a trial court” to take a particular action from “later challenging that decision on appeal.” State v. Blake, 133 Idaho 237, 240, 985 P.2d 117, 120 (1999). This doctrine applies to sentencing decisions as well as to rulings during trial. State v. Leyva, 117 Idaho 462, 465, 788 P.2d 864, 867 (Ct. App. 1990).

On appeal, Stefani acknowledges that, at the disposition hearing for his probation violation, he “specifically asked the district court to revoke his probation and execute his sentence.” (Appellant’s brief, p.4.) Because Stefani requested that that the district court revoke his probation and order his underlying sentence executed, he cannot claim on appeal that the district court abused its discretion by doing exactly that. Therefore, Stefani’s claim of an abuse of sentencing discretion is barred by the doctrine of invited error and the district court’s order revoking probation and ordering Stefani’s underlying sentence executed should be affirmed.

Conclusion

The state respectfully requests this Court to affirm the district court's order revoking probation and ordering Stefani's underlying sentence executed.

DATED this 17th day of January, 2017.

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

VICTORIA RUTLEDGE  
Paralegal

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 17th day of January, 2017, served a true and correct copy of the attached RESPONDENT'S BRIEF by emailing an electronic copy to:

ERIK R. LEHTINEN  
DEPUTY STATE APPELLATE PUBLIC DEFENDER

at the following email address: [briefs@sapd.state.id.us](mailto:briefs@sapd.state.id.us).

/s/ Lori A. Fleming  
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