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State v. Edwards Respondent's Brief Dckt. 44482

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 44482
Plaintiff-Respondent,)	
)	Kootenai County Case No.
v.)	CR-2015-17998
)	
JASON ANTHONY EDWARDS,)	
)	RESPONDENT'S BRIEF
Defendant-Appellant.)	
_____)	

Issue

Has Edwards failed to establish that the district court abused its discretion by imposing an aggregate unified sentence of 55 years, with 30 years fixed, upon his guilty pleas to attempted first degree kidnapping, battery with intent to commit a serious felony, and aggravated assault with an enhancement for use of a deadly weapon?

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

Edwards pled guilty to attempted first degree kidnapping, battery with intent to commit a serious felony, and aggravated assault with an enhancement for use of a deadly weapon, and the district court imposed an aggregate unified sentence of 55

years, with 30 years fixed. (R., pp.182-84.) Edwards filed a notice of appeal timely from the judgment of conviction. (R., pp.185-88.)

Edwards asserts his sentence is excessive in light of his acceptance of responsibility and remorse, troubled childhood, alcohol abuse, age, and ability to hold a steady job. (Appellant's brief, pp.3-5.) The record supports the sentence imposed.

Appellate courts review a criminal sentence under an abuse of discretion standard. State v. Calley, 140 Idaho 663, 665-666, 99 P.3d 616, 618-619 (2004). Sentences fixed within the statutory limits will ordinarily not be considered an abuse of discretion. State v. Sheahan, 139 Idaho 267, 284, 77 P.3d 956, 973 (2003). When a sentence is challenged as being excessively harsh, appellate courts independently review the record on appeal, having due regard for the nature of the offense, the character of the offender, and the protection of the public interest. Calley, 140 Idaho at 666, 99 P.3d at 619. In order to prevail, a defendant must demonstrate that the sentence "in light of the governing criteria, is excessive under any reasonable view of the facts." Id. Sentences are reasonable if "it appears at the time of sentencing that confinement is 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.'" Sheahan, 139 Idaho at 284, 77 P.3d at 973. A sentence need not serve all sentencing goals; one may be sufficient. Id. at 285, 77 P.3d at 974 (citing State v. Waddell, 119 Idaho 238, 241, 804 P.2d 1369, 1372 (Ct. App.1991)). However, as a matter of policy in Idaho, the primary consideration in sentencing is the good order and protection of society, and all other factors are subservient to that end.

State v. Hunnel, 125 Idaho 623, 627, 873 P.2d 877, 881 (1994) (citing State v. Moore, 78 Idaho 359, 363 P.2d 1101, 1103 (1956)).

The maximum prison sentences for the crimes of which Edwards was convicted in these cases are as follows: 15 years for attempted first degree kidnapping, I.C. §§ 18-306(1), -4504; 20 years for battery with intent to commit a serious felony, I.C. § 18-912; and 20 years for aggravated assault with an enhancement for use of a deadly weapon, I.C. §§ 18-906, and 19-2520. The district court imposed an aggregate unified sentence of 55 years, with 30 years fixed, which falls within the statutory guidelines. (R., pp.34-36.) At sentencing, the district court addressed the seriousness of the offenses, Edwards' criminal history – including a lewd conduct conviction, his failure to rehabilitate, and the risk he poses to the public. (7/26/16 Tr., p.16, L.9 – p.19, L.1.) The state submits that Edwards has failed to establish an abuse of discretion, for reasons more fully set forth in the attached excerpt of the sentencing hearing transcript, which the state adopts as its argument on appeal. (Appendix A.)

Conclusion

The state respectfully requests this Court to affirm Edwards's conviction and sentences.

DATED this 8th day of March, 2017.

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

ALICIA HYMAS
Paralegal

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 8th day of March, 2017, served a true and correct copy of the attached RESPONDENT'S BRIEF by emailing an electronic copy to:

BRIAN R. DICKSON
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

APPENDIX A

1 Counsel for the State is present as well.

2 Mr. Edwards, having accepted your guilty pleas to
3 the offenses of attempted first degree kidnapping, battery
4 with the intent to commit a serious felony, specifically
5 rape, and aggravated assault with a deadly weapons
6 enhancement, upping the penalty of a possible 20 years,
7 having accepted those guilty pleas, it is the judgment of
8 the Court that you are guilty of those offenses.

9 Whenever the Court sentencing an individual, it
10 has four factors of sentencing to consider. I considered
11 them in your case.

12 Those four factors include how to best protect
13 society with a sentence that's given. Another factor is how
14 to deter you from criminal conduct, but also how to deter
15 other individuals in similar situations from criminal
16 conduct. A third factor is how to address the punishment
17 that society expects under these circumstances. And then
18 another important factor is how to help any rehabilitation
19 that can be aided by a sentence. And I have those in mind
20 in your case.

21 I do give you credit for 268 days served of
22 incarceration leading up to today's sentence.

23 This is certainly a case where the Court is not
24 going to need to outline the facts of the case, they have
25 been outlined adequately I think by the State. This is a

1 significantly egregious series of criminal offenses. It is
2 one where the primary sentencing factor that the Court is
3 most motivated by is protection of society.

4 The Court is considering all of the facts
5 presented in the presentence investigation report. It is
6 considering the prior conviction for the lewd conduct with a
7 minor. It is considering all of the factors in the
8 psychosexual evaluation and in the GAIN and the mental
9 health evaluations as well.

10 This has been a case where the Court has pretty
11 much known all along that this was going to be a prison
12 sentence. The matter was going to be the number of years in
13 prison and how that was to be structured. That was
14 something that the Court gave great thought to. And the
15 Court is going to adopt the State's recommendation in this
16 matter.

17 The sentence in the attempted first degree kidnap
18 will be a unified sentence of 15 years. It will consist of
19 zero years fixed followed by 15 years indeterminate for a
20 unified 15 years.

21 The sentence in battery with intent to commit the
22 sex, serious felony, will be a unified 20 years, consisting
23 of 20 years fixed followed by zero indeterminate.

24 The sentence in the aggravated assault will be a
25 unified 20 years, ten years fixed followed by ten years

1 indeterminate.

2 Those sentences will run consecutive to each
3 other. Those sentences I will not retain jurisdiction, and
4 I will not suspend those sentences.

5 Again, the Court's primary focus here is the
6 protection of society. The Court is considering the fact
7 that you do, of course, have a prior sexual offense, that
8 you have been through rehabilitation attempts with
9 counseling with the whole rehabilitation regime, followed by
10 the lude conduct conviction and followed by the two riders,
11 and yet this significantly horrifying series of crimes
12 occurred even after those rehabilitative efforts, and,
13 therefore, when the defense argues, and then rightly so,
14 that the Court may be imposing what is the essentially a
15 life sentence, that may be the case, that may not be the
16 case, one can never see for sure. But certainly it is a
17 significant long amount of incarceration. But the Court is
18 just is having trouble seeing that society would be
19 adequately protected with you in a community-based
20 supervision under all of these circumstances. It's not
21 impossible, and, therefore, I have not given you a fixed
22 sentence on all of the possible years of incarceration, but
23 certainly a significant number so that if you are granted
24 parole, it will be at a time when you are significantly
25 considered a significant less of a risk to the community

1 then over the next 30 years.

2 Any questions from the State?

3 MR. ROBBINS: No, Your Honor.

4 THE COURT: How about from the defense?

5 MR. SCHWARTZ: No.

6 Thank you.

7 THE COURT: I have signed an order that terminates
8 the no contact order because there's a final judgment in
9 this case. Contact by the defendant with the victim is now
10 governed by the Board of Corrections, and the Prosecuting
11 Attorney's Office knows how to advise the victim family of
12 how to get their wishes before the Board of Corrections.

13 I have also signed the order that dismisses Counts
14 4 and the part three enhancement.

15 with that, then, you are remanded to the bailiff
16 to begin the service of the sentence.

17 we are in recess until 3 o'clock.

18 (Proceedings concluded.)

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