

4-6-2017

State v. Fairchild Appellant's Brief Dckt. 44530

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,)	NO. 44530
)	
v.)	KOOTENAI CO. NO. CR 2015-17195
)	
DEBORAH ANN FAIRCHILD,)	
)	
Defendant-Appellant.)	APPELLANT'S BRIEF
_____)	

STATEMENT OF THE CASE

Nature of the Case

Pursuant to a plea agreement, Deborah Ann Fairchild pleaded guilty to one count of burglary. The district court withheld judgment and placed Ms. Fairchild on probation for four years. Mindful of the precedent holding that a defendant must challenge a probation term in district court in order for such an issue to be considered on appeal, Ms. Fairchild asserts that the district court erred when it ordered that Ms. Fairchild's probation officer would have discretion over whether she worked full-time or attended school full-time.

Statement of the Facts and Course of Proceedings

In October of 2015, Coeur D'Alene police were dispatched to a Macy's store regarding an alleged shoplifting incident. (Presentence Report (*hereinafter*, PSI), p.22.)¹ Ms. Fairchild was confronted as she was leaving the store with several items. (PSI, p.22.) Subsequently, she was originally charged with one count of burglary and one count of grand theft. (R., p.52.) Pursuant to a plea agreement, she pleaded guilty to burglary. (Tr., p.11, Ls.15-20.) In exchange, the State agreed to dismiss the grand theft charge, recommend local jail time and supervised probation. (Tr., p.4, Ls.13-22.) The State also agreed that it would not object to a withheld judgment. (Tr., p.4, Ls.22-23.)

At the sentencing hearing, the district court withheld judgment and placed Ms. Fairchild on probation for four years. (Tr., p.37, Ls.5-8; R., p.61.) The district court ordered that Ms. Fairchild would "make every effort to maintain full time employment or be enrolled in a full time educational program," and her probation officer would have discretion over whether she would maintain full-time employment or attend school. (R., p.63; Tr., p.38, Ls.17-22.) Ms. Fairchild filed a notice of appeal that was timely from the district court's sentencing disposition. (R., pp.65-67.)

ISSUE

Did the district court err when it ordered that Ms. Fairchild's probation officer would have discretion over whether Ms. Fairchild would attend school full-time or work full-time?

¹ All citations to the PSI refer to the 72-page electronic document.

ARGUMENT

The District Court Erred When It Ordered That Ms. Fairchild's Probation Officer Would Have Discretion Over Whether Ms. Fairchild Worked Full-Time Or Attended School Full-Time

Ms. Fairchild struggles with significant mental health problems and admitted that she was not in her "right mind" when this incident occurred because her dog had died, and she had stopped taking her medications. (See PSI, pp.22, 30; Tr., p.29, Ls.17-25, p.31, L.1 – p.32, L.7.) Mindful of the precedent holding that challenges to the validity of probation terms will not be considered on appeal if they were not first raised in district court, *State v. Leach*, 135 Idaho 525, 530 (Ct. App. 2001) (citations omitted), Ms. Fairchild asserts that the district court erred when it ordered that her probation officer would have discretion over whether she attended school full-time or worked full-time.

"The purpose of probation is to give the defendant an opportunity to be rehabilitated under proper control and supervision." *State v. Mummert*, 98 Idaho 452, 454 (1977) (citations omitted). Therefore, "[t]he terms of probation must be reasonably related to the purpose of probation, rehabilitation." *Id.* Whether a term of probation meets this standard is reviewed de novo. *State v. Jones*, 123 Idaho 315, 318 (Ct. App. 1993) (citation omitted).

Ms. Fairchild asserts that the district court erred when it ordered that her probation officer would have discretion over whether she attended school full-time or worked full-time because giving her probation officer such discretion was not reasonably related to her rehabilitation. First, in light of Ms. Fairchild's mental health problems, her probation officer could not reasonably determine whether further education or

employment would promote her rehabilitation. Second, Ms. Fairchild has acknowledged that she has trouble maintaining steady employment because of her mental health. (PSI, p.27.) Finally, the facts of this case do not indicate that Ms. Fairchild is in need of rehabilitation in the way that term is typically used in criminal cases. This was Ms. Fairchild's first felony conviction, and she was 54 years old when she committed the crime. (PSI, pp.20, 23-24.) Moreover, she admitted that the crime was a result of failing to take her medications and a mental health breakdown. (PSI, p.22; Tr., p.31, L.1 – p.32, L.7.) In fact, the State said that "the root of her issues are really mental health issues," and her counsel explained that he did not think the standard sentencing goals applied to someone in Ms. Fairchild's position. (Tr., p.29, Ls.1-16.)

Therefore, Ms. Fairchild is not in need of rehabilitation to curb some criminal impulse or substance abuse problem. Indeed, when she is properly medicated, it appears she needs no "rehabilitation." (See Tr., p.30, Ls.1-6.) However, any probation terms that require her to either attend school or find employment, should be at the discretion of a mental health professional, not her probation officer. Therefore, giving her probation officer discretion over such matters was not reasonably related to her rehabilitation and may indeed jeopardize her probation as she may not be an appropriate candidate for either option. As such, the district court erred when it imposed this term of probation.

CONCLUSION

Ms. Fairchild respectfully requests that this Court remand her case to the district court with orders to issue a new sentencing disposition, which does not contain this term of probation.

DATED this 6th day of April, 2017.

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

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 6th day of April, 2017, 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:

DEBORAH ANN FAIRCHILD
3050 W KATHY LOOP #103
COEUR D'ALENE ID 83815

JOHN T MITCHELL
DISTRICT COURT JUDGE
E-MAILED BRIEF

JAY LOGSDON
KOOTENAI COUNTY PUBLIC DEFENDER
E-MAILED BRIEF

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DEPUTY ATTORNEY GENERAL
CRIMINAL DIVISION
E-MAILED BRIEF

_____/s/_____
EVAN A. SMITH
Administrative Assistant

RPA/eas