

6-13-2017

State v. Farrow Appellant's Brief Dckt. 44588

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

Recommended Citation

"State v. Farrow Appellant's Brief Dckt. 44588" (2017). *Not Reported*. 3655.
https://digitalcommons.law.uidaho.edu/not_reported/3655

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
State Appellate Public Defender
I.S.B. #6555

BRIAN R. DICKSON
Deputy State Appellate Public Defender
I.S.B. #8701
322 E. Front Street, Suite 570
Boise, Idaho 83702
Phone: (208) 334-2712
Fax: (208) 334-2985

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NOS. 44588 & 44589
Plaintiff-Respondent,)	
)	KOOTENAI COUNTY NOS.
)	CR 2014-12774 & CR 2015-12500
v.)	
)	
SONNY DEAN FARROW,)	APPELLANT'S BRIEF
)	
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Sonny Farrow contends the district court abused its discretion by relinquishing jurisdiction in these two cases. Rather, a sufficient consideration of all the relevant factors in these cases, which led the rider staff and even the prosecutor to recommend probation, reveals that suspended sentences would more effectively address all the goals of sentencing. As such, this Court should reverse the orders relinquishing jurisdiction and remand these cases for orders placing Mr. Farrow on probation.

Statement of the Facts & Course of Proceedings

In the 2014 case, Mr. Farrow pled guilty to domestic battery and the district court imposed a unified sentence of nine years, with five years fixed, but retained jurisdiction. (R., pp.62-63.)¹ This event occurred while he was trying to get his life back in order not long after his pregnant girlfriend was killed in a car accident. (*See* Presentence Investigation Report (*hereinafter*, PSI), p.11.) Mr. Farrow also had brain surgery in 2005 to deal with an infection caused by his addiction to morphine. (PSI, p.14.) Since then, he has been working to maintain his sobriety in that regard, and he has actually been successful in those efforts. (*Compare* PSI, p.14 (indicating that, as of 2014, Mr. Farrow had stopped using morphine, but still struggled with marijuana use); *with* PSI, p.54 (2016 rider staff report indicating Mr. Farrow shows “no dependency” on the Texas Christian University Drug and Alcohol screening).)

Despite struggling some during the rider program and receiving some informal disciplinary sanctions, Mr. Farrow successfully completed the CRP rider program during that first period of retained jurisdiction. (*See* PSI, pp.32, 35.) In fact, the rider staff commended Mr. Farrow’s efforts in the program, particularly his participation in the mentoring program toward the end of that period of retained jurisdiction. (PSI, p.43.) He “demonstrated a high level of integrity and showed that he is willing to go above and beyond for his program, his sobriety and the overall success for his future.” (PSI, p.43.) As a result, he was “much more prepared to handle everyday life and situations upon his release. He has gained important tools and skills for continued success and has spent many weeks practicing these skills and putting them into

¹ Two copies of the Clerk’s Record, which were organized differently, were provided in this case. Citations in this brief will refer to the volume provided in the PDF document titled “FARROW, Sonny_SC #44588 & #44589.”

practice.” (PSI, p.43.) As a result of his success in the rider program, the district court suspend his sentence for a two-year term of probation. (R., pp.67-72.)

However, implementing those tools in real-world scenarios proved more difficult than demonstrating them in practice scenarios, and a few months after Mr. Farrow’s release, the State filed a motion for probation violation based on the fact that Mr. Farrow had received a new charge for domestic battery (the 2015 case). (See R., pp.78-79, 194-95.) Pursuant to a binding plea agreement, Mr. Farrow pled guilty to that new domestic battery charge and admitted the corresponding allegation of probation violation, and the district court imposed a new, consecutive sentence of three years, with one year fixed, and retained jurisdiction in both cases. (R., pp.103-05, 232, 233-35.) Although the district court recommended Mr. Farrow participate in the CRP rider program again, it was apparently IDOC policy to not allow repeat participation in that program. (See Tr., Vol.1, p.44, Ls.9-17.)² As a result, he participated in the general extended rider program instead. (See R., pp.236-37.)

As before, Mr. Farrow was able to complete all his assigned programs and received no formal disciplinary reports during the rider program, though, as before, he did receive several informal sanctions. (PSI, p.54.) The rider staff ultimately recommended the district court suspend Mr. Farrow’s sentences for another term of probation because he learned new skills to help change his thinking and association patterns, thus demonstrating “a solid understanding of what his responsibilities will entail in order for him to continue to build his foundation for recovery.” (PSI, p.58.)

² The transcripts in this case were provided in two independently bound and paginated volumes. To avoid confusion, the volume containing the transcript of the November 19, 2015, entry of plea and sentencing/disposition hearing will be referred to as “Vol.1.” “Vol.2” will refer to the volume containing the transcript of the July 26, 2016, rider review hearing.

However, on his final night at the rider facility, Mr. Farrow was “hazed” out of the program by some of the other inmates, meaning that some other inmates attacked him. (PSI, p.64.) Mr. Farrow was reluctant to participate in the investigation into that incident, but ultimately, did provide some relevant information. (PSI, p.64; Tr., Vol.2, p.8, Ls.14-25.) Nevertheless, the rider staff expressed some concern about Mr. Farrow’s ability to be successful on probation in light of his reluctance to cooperate with that investigation. (PSI, pp.64-65.) However, defense counsel represented at the ensuing rider review hearing that he had a conversation with the author of that subsequent report, and she had indicated the rider staff was not changing their recommendation for probation. (Tr., Vol.2, p.9, Ls.2-8; *see also* Tr., Vol.2, p.13, Ls.16-17 (the district court accepting defense counsel’s representation of that conversation).) The prosecutor also continued to recommend the district court suspend Mr. Farrow’s sentences despite those disciplinary issues. (Tr., Vol.2, p.4, L.18 - p.5, L.3.) Defense counsel joined those recommendations for probation. (Tr., Vol.2, p.9, Ls.17-22.) In addition, Mr. Farrow took the opportunity to directly apologize to the victim in the 2015 case, who had written a letter expressing some concern if Mr. Farrow were to be released on probation, for his actions and sought to allay her concerns. (*See* Tr., p.10, Ls.11-15; Exhibits, p.4.)

Nevertheless, the district court, focusing primarily on the disciplinary issues, decided to relinquish jurisdiction in both cases. (Tr., p.11, L.7 - p.15, L.9.) Mr. Farrow filed notices of appeal in both case timely from the orders relinquishing jurisdiction. (R., pp.112-16, 240-45.)

ISSUE

Whether the district court abused its discretion by relinquishing jurisdiction in these cases.

ARGUMENT

The District Court Abused Its Discretion By Relinquishing Jurisdiction In These Cases

The district court's decision to relinquish jurisdiction is reviewed under an abuse of discretion standard. *State v. Statton*, 136 Idaho 135, 137 (2001); *State v. Hurst*, 151 Idaho 430, 438 (Ct. App. 2011). Such a decision will not be considered an abuse of discretion "if the trial court has sufficient information to determine that a suspended sentence and probation would be inappropriate." *State v. Merwin*, 131 Idaho 642, 648 (1998); *see also State v. Hedger*, 115 Idaho 598, 600 (1989) (articulating the standard for reviewing discretionary decisions on appeal).

"The purpose of retaining jurisdiction after imposing a sentence is to afford the trial court additional time for evaluation of the defendant's rehabilitation potential and suitability for probation." *State v. Lee*, 117 Idaho 203, 205 (Ct. App. 1990). In making that determination, the district court "considers all of the circumstances to assess the defendant's ability to succeed in a less structured environment and to determine the course of action that will further the purposes of rehabilitation, protection of society, deterrence, and retribution." *Statton*, 136 Idaho at 137. It is guided in this determination by I.C. § 19-2521. *Merwin*, 131 Idaho at 648. In this regard, the need to protect society is the primary objective the court should consider. *See, e.g., State v. Charboneau*, 124 Idaho 497, 500 (1993). However, the Idaho Supreme Court has also held that rehabilitation "should usually be the initial consideration" in making sentencing decisions. *State v. McCoy*, 94 Idaho 236, 240 (1971), *superseded on other grounds as stated in State v. Theil*, 158 Idaho 103 (2015).

In this case, everyone – the prosecutor, the rider staff, and the defense – agreed that Mr. Farrow’s performance during the most recent period of retained jurisdiction demonstrated an ability to be successful on probation. (*See* PSI, p.58; Tr., Vol.2, p.9, Ls.2-8, p.4, Ls.18-20, p.9, Ls.17-22.) They all made that recommendation while acknowledging the disciplinary issues which arose during the period of retained jurisdiction. (*Compare* Tr., p.11, L.7 - p.15, L.9 (the district court focusing almost exclusively on those incidents as justification for relinquishing jurisdiction).) It is true that Mr. Farrow struggled some in the rider program, but it is still noteworthy that he did not have any formal disciplinary reports during his time in that program. (*See* PSI, p.54.) And, as the rider staff pointed out, he was able to learn new skills to help change his thinking and association patterns, and demonstrate “a solid understanding of what his responsibilities will entail in order for him to continue to build his foundation for recovery.” (PSI, p.58.)

Similarly, the incident at the end of his rider, does not indicate Mr. Farrow would be unable to be successful on probation. As the report indicates, Mr. Farrow was “hazed” out of the rider program by other inmates; he was not the instigator. (PSI, p.64.) His reluctance to cooperate with the investigation into that incident, particularly given that he ultimately did provide some relevant information, does not negate the progress he made in the program or his potential for continued rehabilitation while on probation. (*See* Tr., Vol.2, p.8, L.14 - p.9, L.4.)

Rather, his progress in that program despite his struggles, reaffirms what the rest of the record demonstrates – Mr. Farrow does have the ability to be successful in his rehabilitative efforts while on probation. Most notably, he has successfully dealt with his drug addictions to the point where he shows “no dependency” on drug and alcohol screenings. (*See* PSI, pp.14, 54.) He also completed all the assigned programs during his period of retained

jurisdiction, and showed good growth during those programs. (*See* PSI, pp.54, 58.) As such, a sufficient consideration of *all* the relevant information in the record, not just the disciplinary information upon which the district court focused, reveals that Mr. Farrow has the potential to continue rehabilitating effectively on probation, and suspending his sentences would still serve all the other goals of sentencing. As such, the decision to relinquish jurisdiction represents an abuse of the district court's discretion.

CONCLUSION

Mr. Farrow respectfully requests that this Court reverse the order relinquishing jurisdiction and remand these cases for orders placing him on probation.

DATED this 13th day of June, 2017.

_____/S/_____
BRIAN R. DICKSON
Deputy State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 13th day of June, 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:

SONNY DEAN FARROW
INMATE #113181
ICIO
381 W HOSPITAL DR
OROFINO ID 83544

JOHN T MITCHELL
DISTRICT COURT JUDGE
E-MAILED

EDWARD J LAWLOR
KOOTENAI COUNTY PUBLIC DEFENDER
E-MAILED

KENNETH K JORGENSEN
DEPUTY ATTORNEY GENERAL
CRIMINAL DIVISION
E-MAILED

_____/S/_____
MAGALI CEJA
Administrative Assistant

BRD/mc