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State v. Hoyle Appellant's Brief Dckt. 44884

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,)	NO. 44884
)	
v.)	BONNEVILLE COUNTY
)	NO. CR 2016-2033
)	
JEREMY KELLY HOYLE)	
)	APPELLANT’S BRIEF
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Jeremy Kelly Hoyle pled guilty to robbery and the district court sentenced him to ten years, with two years fixed. On appeal, Mr. Hoyle asserts that the district court abused its discretion by declining to grant him probation, or even consider it, in light of the additional information that he presented with his Rule 35 motion.

Statement of the Facts and Course of Proceedings

Mr. Hoyle had a serious drug addiction and suffered from major depression. (Tr., p.15, Ls.11-18; PSI, p.19.) On February 27, 2016, while high on heroin and crack cocaine, Mr. Hoyle

walked into a convenience store, displayed a knife to the clerk at the register, and told her to give him the money. (R., p.10; PSI, p.4.)¹ The clerk handed him the money and Mr. Hoyle fled. (PSI, pp.3-4.) Mr. Hoyle was later identified on the store's surveillance video, and the State charged him with robbery and use of a deadly weapon. (R., pp.8, 10, 42.) Pursuant to an agreement, Mr. Hoyle pled guilty to the robbery charge, and the State agreed to dismiss the deadly-weapon enhancement, and to recommend a fixed term of not more than three years; there was no further agreement regarding the sentence. (R., p.74; Tr., p.5, Ls.17-24.)

At the sentencing hearing, Mr. Hoyle apologized to his victims, and asked for a suspended seven-year sentence, with two years fixed, and probation; he argued that probation would allow him to focus on treatment for his mental health and substance abuse issues. (Tr., p.26, L.9 – p.28, L.20.) While sympathetic to Mr. Hoyle's need for treatment, the district court declined to even consider probation. The court explained:

[T]he number one is the nature of the offense is just aggravating enough that I believe, if you rob a retail business that you will go to prison.

(Tr., p.33, Ls.17-18.) The court sentenced Mr. Hoyle to ten years, with two years fixed. (Tr., p.34, Ls.3-4; R., p.79.)

Mr. Hoyle filed an Idaho Criminal Rule 35 motion for reduction of sentence (R., p.88), and at the subsequent hearing, he offered additional information regarding an intensive, inpatient drug treatment program that Mr. Hoyle's mother had located, and agreed to pay for (Tr., p.39,

¹ Citations to the Presentence Investigation Report and attached materials will use the designation "PSI" and will include the page numbers associated with the 86-page electronic file containing those documents.

L.19 – p.40, L.12). The district court denied the motion, explaining, “given the nature of the offense, I just feel like my hands are tied.” (Tr., p.48, Ls.21-22.)

Mr. Hoyle filed a notice of appeal that is timely as to the judgment and the order denying his Rule 35 motion. (R., pp.79, 88, 95, 98; *see also* I.A.R. 14(a).)

ISSUE

Did the district court abuse its discretion by declining to grant probation, or to even consider it, in light of the additional information Mr. Hoyle offered with his Rule 35 motion?

ARGUMENT

The District Court Abused Its Discretion When It By Declining To Grant Probation, Or To Even Consider It, In Light Of The Additional Information Mr. Hoyle Offered With His Rule 35

A. Introduction

Mr. Hoyle’s criminal conduct in this case was driven by his serious drug addiction and severe mental health disorders. (PSI, p.4.) The district court recognized his need for treatment (Tr., p.29, L.23 – p.31, L.3), and Mr. Hoyle demonstrated the availability of that treatment at his Rule 35 hearing (Tr., p.39, L.13 – p.40, L.6). The district court’s refusal to grant him probation under these circumstances, or to even consider it, was unreasonable, representing an abuse of discretion.

B. Standard Of Review

When a defendant challenges his sentence as excessively harsh, this Court will conduct an independent review of the record, taking into account “the nature of the offense, the character of the offender, and the protection of the public interest.” *State v. Miller*, 151 Idaho 828, 834 (2011). The Court reviews the district court’s sentencing decision for an abuse of discretion, which occurs if the district court imposed a sentence that is unreasonable, and thus excessive,

“under any reasonable view of the facts.” *State v. Strand*, 137 Idaho 457, 460 (2002); *State v. Toohill*, 103 Idaho 565, 568 (Ct. App. 1982). “A sentence is reasonable if it appears necessary to accomplish the primary objective of protecting society and to achieve any or all of the related goals of deterrence, rehabilitation, or retribution.” *Miller*, 151 Idaho at 834. A sentencing court’s decision to grant or decline probation is reviewed under these same criteria. *See State v. Hayes*, 138 Idaho 761, 767 (Ct. App. 2003).

“A motion for reduction of sentence under I.C.R. 35 is essentially a plea for leniency, addressed to the sound discretion of the court.” *State v. Knighton*, 143 Idaho 318, 319, 144 P.3d 23, 24 (2006). In presenting a Rule 35 motion, the defendant must show that the sentence is excessive in light of new or additional information subsequently provided to the district court in support of the motion. *State v. Huffman*, 144 Idaho 201, 203, 159 P.3d 838, 840 (2007). In reviewing the grant or denial of a Rule 35 motion, the Court must “consider the entire record and apply the same criteria used for determining the reasonableness of the original sentence.” *State v. Carter*, 157 Idaho 900, 903 (Ct. App. 2014).

C. The District Court Abused Its Discretion When It Declined To Consider Probation In This Case

Mr. Hoyle was thirty-seven years old at the time of sentencing, and this was his first and only felony conviction. (Tr., p.7, L.17; PSI, p.7.) His drug addiction and mental health condition are significant mitigating factors in this case, and his need for treatment favors probation. *See State v. Nice*, 103 Idaho 89 (1982).

Mr. Hoyle was diagnosed with depression when he was eight years old, and he has been prescribed over a dozen different antidepressants over the years. (PSI, p.12.) His alcohol and drug abuse likewise began at an early age: In junior high he started drinking and using marijuana and LSD, which soon led to his abuse of a host of other drugs, including

methamphetamine, cocaine, and heroin, and eventually he became an IV user. (PSI, pp.8, 12, 14.)

Mr. Hoyle's unresolved depression and drug addiction have combined to hold him down throughout his life. Although he has talent and managed to develop job skills, his drug abuse prevented him from keeping a job or having any semblance of a career. (PSI, p.11.) Worst of all, his addiction has caused him to lose his parental rights to all five of his children. (PSI, pp.4, 10.) He has suffered major depressive episodes and attempted to end his life more than once. (PSI, p.12.)

Mr. Hoyle realizes that his addiction to drugs is out of control and ruining his life. (PSI, p.14.) He knows that his drug abuse exacerbates his mental health problems. (PSI, p.19.) However, the only treatment he has undergone for his decades-long drug problem occurred when he was eighteen years old, and was unsuccessful. (PSI, p.14; Tr., p.45, Ls.22-24.) Now 37, Mr. Hoyle *wants* treatment for his addiction; he recognizes that he must fully address his mental health and drug abuse issues, and that he must learn to deal with his problems sober. (PSI, p.14.) However, and contrary to the conclusion reached by the presentence writer, a lengthy incarceration is not the only option for treatment and recovery. (PSI, p.19.)

At his Rule 35 hearing, Mr. Hoyle presented new information about a residential drug treatment program that his mother had contacted, in Central Oregon. (Tr., p.40, Ls.3-12.) That program includes an intensive inpatient treatment component, followed by gradual transition back to the community, with intensive outpatient treatment and aftercare. (Tr., p.40, L.20 – p.41, L.3.) Significantly, Mr. Hoyle's participation in this program would be paid for by his mother, who would also provide necessary support to arrange for that program. (Tr., p.4, Ls.3-6.) This strong familial support enhances Mr. Hoyle's rehabilitation potential, and likewise favors

probation. *See State v. Coffin*, 146 Idaho 166, 171 (Ct. App. 2008). Intensive treatment and probation, rather than incarceration, would provide the *best* option for protecting society, deterring future misconduct, and providing for the long-term rehabilitation of Mr. Hoyle.

Given these facts and circumstances, the district court's refusal to grant his Rule 35 request for probation represents an abuse of discretion.

CONCLUSION

Mr. Hoyle respectfully requests that this Court vacate his sentence and remand his case to the district court for a new sentencing, with directions that the court place him on probation.

DATED this 17th day of July, 2017.

_____/s/_____
KIMBERLY A. COSTER
Deputy State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 17th day of July, 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:

JEREMY KELLY HOYLE
INMATE #120939
ISCC
PO BOX 70010
BOISE ID 83707

DANE H WATKINS JR
DISTRICT COURT JUDGE
E-MAILED BRIEF

TRENT GRANT
BONNEVILLE COUNTY PUBLIC DEFENDER
E-MAILED BRIEF

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DEPUTY ATTORNEY GENERAL
CRIMINAL DIVISION
E-MAILED BRIEF

_____/s/_____
EVAN A. SMITH
Administrative Assistant

KAC/eas