

6-28-2017

## State v. Jones Appellant's Brief Dckt. 44951

Follow this and additional works at: [https://digitalcommons.law.uidaho.edu/not\\_reported](https://digitalcommons.law.uidaho.edu/not_reported)

---

### Recommended Citation

"State v. Jones Appellant's Brief Dckt. 44951" (2017). *Not Reported*. 3934.  
[https://digitalcommons.law.uidaho.edu/not\\_reported/3934](https://digitalcommons.law.uidaho.edu/not_reported/3934)

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](mailto:annablaine@uidaho.edu).

ERIC D. FREDERICKSEN  
State Appellate Public Defender  
I.S.B. #6555

ANDREA W. REYNOLDS  
Deputy State Appellate Public Defender  
I.S.B. #9525  
322 E. Front Street, Suite 570  
Boise, Idaho 83702  
(208) 334-2712

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	NO. 44951
	)	
Plaintiff-Respondent,	)	ADA COUNTY NO. CR-FE-2016-3620
	)	
v.	)	
	)	APPELLANT’S BRIEF
JEREMIAH WAYNE JONES,	)	
	)	
Defendant-Appellant.	)	
_____	)	

STATEMENT OF THE CASE

Nature of the Case

Jeremiah Wayne Jones appeals from the district court’s order denying his Idaho Criminal Rule 35 (“Rule 35”) motion for a reduction of sentence. He contends the district court abused its discretion in denying this motion because he provided additional information to the district court regarding his mental health, which showed that his original sentence of five years, with two years fixed, for unlawful possession of a firearm, was excessive.

Statement of Facts & Course of Proceedings

Mr. Jones pled guilty to unlawful possession of a firearm and was sentenced to a unified term of five years, with two years fixed. *See State v. Jones*, No. 44436, 2017 WL 445064

(Ct. App. Feb. 2, 2017.) He appealed, challenging his sentence as an abuse of discretion, and the Court of Appeals affirmed in an unpublished decision. *See id.*

On December 8, 2016, Mr. Jones filed a Rule 35 motion for a reduction of sentence, supported by a memorandum with exhibits, filed on January 30, 2017. (R., pp.11, 16-21.) The State did not file a response to Mr. Jones' Rule 35 motion. The district court issued an order on February 23, 2017, denying the motion without a hearing. (R., pp.22-24.) Mr. Jones filed a timely notice of appeal on March 23, 2017. (R., pp.25-27.)

### ISSUE

Did the district court abuse its discretion when it denied Mr. Jones' Rule 35 motion?

### ARGUMENT

#### The District Court Abused Its Discretion When It Denied Mr. Jones' Rule 35 Motion

“A motion to alter an otherwise lawful sentence under Rule 35 is addressed to the sound discretion of the sentencing court . . . and essentially is a plea for leniency which may be granted if the sentence originally imposed was unduly severe.” *State v. Trent*, 125 Idaho 251, 253 (Ct. App. 1994). “The denial of a motion for modification of a sentence will not be disturbed absent a showing that the court abused its discretion.” *Id.* In examining a district court's denial of a motion for modification, this Court “examine[s] the probable duration of confinement in light of the nature of the crime, the character of the offender and the objectives of sentencing, which are the protection of society, deterrence, rehabilitation and retribution.” *Id.* “If the sentence was not excessive when pronounced, the defendant must later show that it is excessive in view of new or additional information presented with the motion for reduction.” *Id.*

The district court abused its discretion when it denied Mr. Jones' Rule 35 motion because Mr. Jones provided additional information to the district court regarding his mental health, which showed that the original sentence of five years, with two years fixed, was excessive. Mr. Jones was convicted of unlawful possession of a firearm after he took a gun from a friend's house with the intent of committing suicide, and then attempted to shoot himself while traveling in a car with his ex-girlfriend and a mutual friend. (No. 44436, Presentence Investigation Report (PSI), pp.4, 6.)<sup>1</sup> Mr. Jones told the district court at sentencing that he "was at the point where [he] didn't want to live anymore." (No. 44436, Tr., p.34, Ls.15-17.)

Despite the circumstances of his offense, the district court concluded Mr. Jones did not have any mental health issues, and sentenced him as someone who had just chosen "not to follow the rules." (No. 44436, Tr., p.37, Ls.4-8.) The district court told Mr. Jones, "But most importantly, as I read this, you don't have any mental health concerns. It's not like you have those kinds of issues. You're just someone who has chosen, up to this point, not to follow the rules." (No. 44436, Tr., p.37, Ls.4-8.) This is inaccurate. Mr. Jones attempted suicide in this case, as he had previously, and instead of being provided with mental health treatment, was sentenced to a term of incarceration.

In support of his Rule 35 motion, Mr. Jones provided the district court with his medical records from the Idaho Department of Corrections (IDOC) which reflect that, at intake, he was assessed with ADHD, depression, and PTSD, and had two prior suicide attempts. (R., p.18.) These medical records also reflect that Mr. Jones has a history of hearing voices, and the provisional diagnosis indicates a need to rule-out unspecified bipolar disorder with psychotic

---

<sup>1</sup> The Supreme Court augmented this appeal to include the clerk's record, transcript, and exhibits from Mr. Jones' prior appeal (No. 44436). (R., p.2.)

features. (R., pp.17-18.) The records identify a need for follow-up mental health services, and indicate Mr. Jones was prescribed a psychotropic medication by IDOC. (R., pp.19-20.)

In support of his Rule 35 motion, Mr. Jones argued he “could very possibly be a law-abiding member of society once he has received adequate treatment for his mental health issues.” (R., p.17.) Mr. Jones requested that the district court either place him on probation or reduce his fixed time. (R., p.17.) The district court abused its discretion in denying this requested relief, considering its statement at sentencing regarding Mr. Jones’ lack of mental health issues, which was demonstrated by the IDOC medical records to be patently false. The district court abused its discretion in failing to recognize that a person whose suicide attempt results in a criminal conviction may have mental health issues warranting treatment rather than incarceration.

#### CONCLUSION

Mr. Jones respectfully requests that this Court vacate the district court’s order denying his Rule 35 motion and remand this case to the district court with instructions to place him on probation, or reduce his fixed time.

DATED this 28<sup>th</sup> day of June, 2017.

/s/  
\_\_\_\_\_  
ANDREA W. REYNOLDS  
Deputy State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 28<sup>th</sup> day of June, 2017, I served a true and correct copy of the foregoing APPELLANT'S BRIEF, as follows:

JEREMIAH WAYNE JONES  
INMATE #89000  
S.I.C.I.  
P.O. BOX 8509  
BOISE, ID 83707  
Delivered via United States first class mail

HON. RICHARD D. GREENWOOD  
200 WEST FRONT STREET  
BOISE ID 83702-7300  
Delivered via e-mail to: rgreenwood@adaweb.net

KYLE O. SCHOU  
ADA COUNTY PUBLIC DEFENDER  
200 WEST FRONT STREET STE 1107  
BOISE ID 83702  
Delivered via e-mail to: kschou@adaweb.net

KENNETH K. JORGENSEN  
DEPUTY ATTORNEY GENERAL  
CRIMINAL DIVISION  
PO BOX 83720  
BOISE ID 83720-0010  
Delivered via e-mail to: patricia.miller@ag.idaho.gov

/s/

\_\_\_\_\_

KERI H. CLAUSEN  
Administrative Assistant

AWR/khc