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State v. Taylor Appellant's Brief Dckt. 45217

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NOS. 45217 & 45218
Plaintiff-Respondent,)	
)	TWIN FALLS COUNTY NOS. CR42-16-7501
v.)	& CR42-16-10599
)	
ANITA MARIE TAYLOR,)	APPELLANT’S BRIEF
)	
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

After Anita Taylor pled guilty to grand theft, two counts of forgery, possession of a transaction card, possession of a forged check, possession of a controlled substance, and to being a persistent violator, the district court sentenced her to unified concurrent terms of life, with eight years fixed. Ms. Taylor appeals from her judgments of conviction and asserts that her sentences are excessive in light of the mitigating factors in her case.

Statement of Facts and Course of Proceedings

In Twin Falls County No. CR42-16-7501, Ms. Taylor pled guilty to grand theft for taking over one-thousand dollars’ worth of merchandise from a Fred Meyer store, and also to being a

persistent violator. (R., pp.132–41; Plea Tr., p.9, L.5–p.10, L.20.) In Twin Falls County No. CR42-16-10599, Ms. Taylor pled guilty to two counts of forgery for using someone else’s check to pay for merchandise at D&B Supply and prescriptions at Smith’s Food King; possession of a financial transaction card for having someone else’s business check card; possession of a forged check, which she intended to use to pay for merchandise at Simerly’s; possession of a controlled substance for having half of an Adderall pill for which she did not have a prescription; and to being a persistent violator. (R., pp.301–11, Plea Tr., p.20, L.15–p.25, L.19.) These pleas were not a result of an agreement between Ms. Taylor and the State—Ms. Taylor simply decided to plead guilty. (Plea Tr., p.3, L.15–p.4, L.4, p.15, L.24–p.16, L.16.)

At the joint sentencing hearing on both cases, the State discussed Ms. Taylor’s criminal history and requested a fixed term of ten years with a ten- to twenty-year indeterminate term. (Sent. Tr., p.17, L.15–p.27, L.2.) Defense counsel pointed out that Ms. Taylor pled guilty to each of these crimes without reaching any agreement with the State, and thus had really taken responsibility for her crimes. (Sent. Tr., p.27, L.18–p.28, L.3.) He recounted Ms. Taylor’s earlier periods of criminal activity, which also consisted primarily of financial crimes, and opined that Ms. Taylor’s crimes were ultimately tied to her drug addiction and psychological issues. (Sent. Tr., p.28, L.4–p.31, L.3.) Considering that mitigating information, defense counsel suggested that the ten-year fixed term proposed by the State was excessive. (Sent. Tr., p.31, Ls.9–12.) Because Ms. Taylor had been successful on probation in the past, defense counsel asked for a period of retained jurisdiction so that she could earn a chance at probation. (Sent. Tr., p.31, Ls.13–20.) Finally, Ms. Taylor told the court:

Several things happened for me today in here. I’ve never seen quite what the prosecutor showed. Something I was involved in, whether it was just me or with other people, and I’ve never had anyone put the result of the crimes together like Ms. George did, and it kind of makes me sick of myself, quite frankly, and what

I'm capable of when I'm in my addiction. For a long time after my rider, I did really well. I worked for Jubilee House for three years, I did really well, then I started taking pain pills. Like I thought, I would be okay, and I wasn't. So I was on pills, and my mom died, and I couldn't think of anything, and I remember that time only just being dark, and I don't remember a lot of that time, and I'm not saying any way any [sic] of that makes my behavior ok, because it doesn't. But I would just ask that you take all of that into consideration and send me on another rider.

Thank you.

(Sent. Tr., p.33, Ls.3–20.)

The court rejected the proposition that these crimes were the product of Ms. Taylor's addiction and mental health problems, then sentenced her to serve concurrent terms of life, with eight years fixed, on each count. (R., pp.166–70, 340–46, 350–56; Sent. Tr., p.34, L.25–p.38, L.10.) Ms. Taylor timely appealed (R., pp.178–81, 365–68) and this Court consolidated the cases for appellate purposes (R., pp.192, 379).

ISSUE

Did the district court abuse its discretion when it sentenced Ms. Taylor to serve concurrent unified terms of life, with eight years fixed?

ARGUMENT

The District Court Abused Its Discretion When It Sentenced Ms. Taylor To Serve Concurrent Unified Terms Of Life, With Eight Years Fixed

When a defendant challenges her 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. Ms. Taylor’s sentence is excessive in light of the mitigating evidence in this case, which includes her difficult childhood, drug addiction, and mental health problems, which provide a backdrop for her crimes, as well as accountability and remorse.

Ms. Taylor was born and raised in the Twin Falls area, where she has spent most of her life. (PSI, p.32.) Her father’s step-brother sexually abused her between the ages of eight and sixteen, at which point she was able to fight him off. (PSI, pp.11, 32, 124.) She said her mother knew about the abuse, but never intervened. (PSI, pp.32, 124.) Ms. Taylor did not have much of a relationship with her biological father, who was in prison for drug possession and financial crimes. (PSI, p.33.) She was raised by her mother, who taught her how to forge her grandmother’s checks when she was fifteen, and her step-father. (PSI, pp.81, 124.)

Ms. Taylor has struggled with depression since she was a teenager, and has attempted suicide twice. (PSI, pp.11, 37, 51–52.) She started using alcohol and marijuana in high school, eventually graduating to methamphetamine, opiates, and cocaine. (PSI, pp.13, 38–39.) Ms. Taylor has been diagnosed with severe opioid, methamphetamine, and cocaine use disorders, mild alcohol use disorder, generalized anxiety disorder, and major depression. (PSI, pp.16. 47.) She may also have a personality disorder. (PSI, p.16.)

Ms. Taylor had been clean for awhile before taking prescription pills to deal with chronic back pain. (PSI, p.40.) What started as pain management turned into a full relapse in 2014. (*Id.*) Things got progressively worse during the summer of 2016, when Ms. Taylor lost her job and insurance, and her mother, who had been in poor health since February, passed away. (PSI,

pp.40, 121.) Ms. Taylor committed the grand theft at issue here that May, and committed the remaining crimes in October. (PSI, pp.14–16.)

Ms. Taylor had started seeing a psychotherapist just before her arrest (PSI, p.121), and understands that she needs counseling to help her address her mental health problems (PSI, pp.37, 40). She most recently attended substance abuse treatment in 2008, and the GAIN-I assessment suggested she participate in level 2.1 intensive outpatient treatment. (PSI, pp.39, 57.) She was found to have a high motivation for treatment, and completed “Thinking for Good” through the Twin Falls County Treatment & Recovery Clinic while awaiting her sentencing. (PSI, pp.53, 60; R., p.151.)

As expressed at the sentencing hearing, Ms. Taylor regrets the damage her crimes have done. (Sent. Tr., p.33, Ls.3–20.) Going forward, she wants to live with integrity as a law-abiding citizen and be a part of her grandchildren’s lives. (PSI, p.39.) She has the support of her children in meeting those goals. (R., pp.152–55.)

In light of these mitigating factors, which provide context for Ms. Taylor’s crimes, her insight into her actions, and her plans for the future, the district court abused its discretion by sentencing Ms. Taylor to concurrent unified sentences of life, with eight years fixed.

CONCLUSION

Ms. Taylor respectfully requests that this Court order that the district court retain jurisdiction or reduce her sentence as it deems appropriate.

DATED this 16th day of November, 2017.

_____/s/_____
MAYA P. WALDRON
Deputy State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 16th day of November, 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:

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RANDY J STOKER
DISTRICT COURT JUDGE
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_____/s/_____
EVAN A. SMITH
Administrative Assistant

MPW/eas