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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 45213
Plaintiff-Respondent,)	
)	Twin Falls County Case No.
v.)	CR42-16-10773
)	
LYNNETT ANN RIFE,)	
)	RESPONDENT'S BRIEF
Defendant-Appellant.)	
_____)	

Issue

Has Rife failed to establish that the district court abused its discretion by imposing an underlying unified sentence of four years, with two years fixed, upon the jury's verdict finding her guilty of possession of methamphetamine?

Rife Has Failed To Establish That The District Court Abused Its Sentencing Discretion

A jury found Rife guilty of possession of methamphetamine and the district court imposed a unified sentence of four years, with two years fixed, suspended the sentence, and placed Rife on supervised probation for three years. (R., pp.196, 234-43.) Rife filed a notice of appeal timely from the judgment of conviction. (R., pp.244-48.)

Rife asserts her underlying sentence is excessive in light of her “stable background, supportive family and friends, and clean criminal history.” (Appellant’s brief, pp.2-3.) The record supports the sentence imposed.

When evaluating whether a sentence is excessive, the court considers the entire length of the sentence under an abuse of discretion standard. State v. McIntosh, 160 Idaho 1, 8, 368 P.3d 621, 628 (2016); State v. Stevens, 146 Idaho 139, 148, 191 P.3d 217, 226 (2008). It is presumed that the fixed portion of the sentence will be the defendant's probable term of confinement. State v. Oliver, 144 Idaho 722, 726, 170 P.3d 687, 391 (2007). Where a sentence is within statutory limits, the appellant bears the burden of demonstrating that it is a clear abuse of discretion. McIntosh, 160 Idaho at 8, 368 P.3d at 628 (citations omitted). To carry this burden the appellant must show the sentence is excessive under any reasonable view of the facts. Id. 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. Id. The district court has the discretion to weigh those objectives and give them differing weights when deciding upon the sentence. Id. at 9, 368 P.3d at 629; State v. Moore, 131 Idaho 814, 825, 965 P.2d 174, 185 (1998) (court did not abuse its discretion in concluding that the objectives of punishment, deterrence and protection of society outweighed the need for rehabilitation). “In deference to the trial judge, this Court will not substitute its view of a reasonable sentence where reasonable minds might differ.” McIntosh, 160 Idaho at 8, 368 P.3d at 628 (quoting Stevens, 146 Idaho at 148-49, 191 P.3d at 226-27). Furthermore, “[a] sentence fixed within the limits prescribed by the statute will ordinarily not be considered an abuse of discretion by the trial court.” Id. (quoting State v. Nice, 103 Idaho 89, 90, 645 P.2d 323, 324 (1982)).

The maximum prison sentence for possession of methamphetamine is seven years. I.C. § 37-2732(c)(1). The district court imposed an underlying unified sentence of only four years, with two years fixed, which falls well within the statutory guidelines. (R., pp.234-43.) Furthermore, Rife's sentence is appropriate in light of her refusal to accept responsibility for her criminal behavior, denial of her substance abuse and consequent lack of amenability to treatment, and unwillingness to comply with the conditions of supervision in the community.

Rife has consistently denied that she committed the instant offense, and she also "denied she has ever experimented or used any illicit substances with the exception of trying marijuana once when she was 19 years old." (PSI, pp.17, 23, 30, 71.) Rife's claims are not believable, however, considering the facts of this case. In the instant offense, Rife travelled to California and back with her friend, Alicia Requa, in a vehicle that was under surveillance because officers suspected Requa of purchasing drugs in California and bringing the drugs to Idaho. (R., p.15; PSI, pp.15-16.¹) Officers stopped Rife and Requa shortly after they reentered Idaho. (R., pp.15-16.) A K-9 alerted on their vehicle and, upon conducting a search, officers found methamphetamine, "Ecstasy pills," a marijuana pipe, and a digital scale with heroin residue in the center console; "a Ziploc style baggie containing marijuana in the rear seating area of the vehicle along with multiple pieces of new glass consistent with that used to ingest substances by smoking them" and a "large jug with a liquid substance"; and a "glass pipe caked with residue" in Rife's purse and methamphetamine wrapped in cellophane inside Rife's wallet. (R., pp.16-17; PSI, p.15.) Although Requa admitted that the drugs found in the center console belonged to her, Rife denied ownership of the contents of her own purse and wallet – when an officer asked Rife about the pipe found in her purse, she suggested that it "could have been placed in her purse by

Requa.” (R., pp.17-18; PSI, p.15.) The officer then asked Rife about the methamphetamine in her wallet, and Rife “once again told [the officer] that Requa could have placed it there too.” (R., p.18.)

Following her arrest for the instant offense, Rife was released on Court Compliance monitoring; however, she immediately violated the terms of her pretrial release by failing to enroll or check in with the Court Compliance program. (R., p.38.) She was arrested on a bench warrant, but was again released on Court Compliance monitoring, after which she tested positive for alcohol, twice failed to appear for drug testing, provided diluted urine samples on three separate occasions, and tested positive for methamphetamines and amphetamines on two separate occasions. (R., pp.214-15.) Rife denied that she had consumed alcohol despite the fact that “the Laboratory confirmed the test results,” and she also “denied any usage” when she tested positive for methamphetamines and amphetamines; she subsequently failed to “send the samples to the Laboratory for further testing” as instructed. (R., p.214.) Rife’s denial of wrongdoing and denial of any substance use persisted throughout the pendency of this case, and she specifically stated that she did not need substance abuse treatment. (PSI, pp.17, 23, 30, 71; R., p.214.)

At sentencing, the state recommended the retained jurisdiction program and a unified sentence of seven years, with three years fixed, arguing:

Your Honor, the State has read over the presentence investigation and finds this defendant’s story to be disingenuous in the extreme, considering that she tested positive for methamphetamine during court compliance, submitted diluted samples, and also initially tried to skip out on that program altogether, according to report. As you may recall, Your Honor, the State did have to send out a warrant for Ms. Rife.

Now, this defendant does have no record. She says that she is a registered nurse, however, she has been fired from positions in the past or fired from a

¹ PSI page numbers correspond with the page numbers of the electronic file “Supreme Court No. 45213 Lynnett Ann Rife Confidential Exhibits.pdf.”

position at Bridgeview Estates. Reading over the presentence investigation, it's clear that the defendant is minimizing her drug use. In fact, she told investigators that she hasn't used, when her time on court compliance indicates otherwise. The PSI believes that Ms. Rife is a marginal candidate for probation, but the State does not. The State does not wish for its probation officers to have to untangle this defendant's false statements on a regular basis. Her performance on court compliance leaves a great deal to be desired.

(5/22/17 Tr., p.5, L.5 – p.6, L.1.) Likewise, the district court articulated its doubts with respect to Rife's candor, stating, "I think there's just enough strange things going on here that I think you have some problems you need to deal with." (5/22/17 Tr., p.9, Ls.7-9.) The court imposed a unified sentence of four years, with two years fixed, stating, "The reason I pick that number is that you have no record. That's typically what we do on first time felony possession cases." (5/22/17 Tr., p.10, Ls.18-21.) The court granted Rife the opportunity of supervised probation and warned Rife, "if you ... have substance problems that you're not dealing with, it's going to come back to haunt you very quick, because moving from the court compliance program to the department of corrections program in terms of drug testing is a world of difference." (5/22/17 Tr., p.9, Ls.11-16.)

Indeed, approximately two months later, while at Advanced Drug Detection for drug testing, Rife was discovered with a device that was "intended to falsify urinary analysis" "sewn into [her] undergarments," she tested positive for methamphetamine via a "mouth swab," and officers found two small bags of methamphetamine in Rife's wallet, which was inside her purse. (R., pp.258, 261-63, 270.) Unsurprisingly, Rife "denied any knowledge of the methamphetamine in her wallet." (R., p.270.) However, she finally admitted that she used methamphetamine, and advised that her "method of using methamphetamine was to smoke it." (R., p.270.)

Although Rife asserts, on appeal, that her underlying sentence is excessive in light of her “stable background, supportive family and friends, and clean criminal history,” Rife had the same support, background, and history when she chose to commit the instant offense, and none of these factors prevented her from committing the instant offense, from possessing and consuming methamphetamine while on pretrial release and later while on probation, or from committing the very same offense – wherein she was once again found with methamphetamine in her wallet – just two months after she was placed on probation. (Appellant’s brief, p.2; PSI, pp.17-19, 58-70; R., pp.262, 299.) Furthermore, Rife’s ongoing denial and refusal to accept responsibility outweighs the fact that she has supportive family and friends, as she was apparently able to hide her substance abuse from her supporters and convince them that she had done no wrong. (See PSI, pp.58-70.) She submitted numerous letters of support in which her friends and family members expressed their disbelief that Rife ever used or possessed drugs (PSI, pp.58-61, 63-65, 67-70), making statements such as: “Even the idea of [Rife] committing such a crime is ludicrous in my mind” (PSI, p.59); “For me to believe she is involved in any illegal activity is inconceivable” (PSI, p.63); “The idea of her being involved with any illegal drug is ridiculous” (PSI, p.64); and, “[T]he idea of her being [i]nvolved with any of this nonsen[s]e is outrageous!” (PSI, p.68). Additionally, while Rife claims that her “stable background supports a lower sentence,” it is noteworthy that Rife told the presentence investigator that she had been unemployed for the past three years and had not worked as a registered nurse in over seven years. (PSI, p.21.) When asked why her last employment as a registered nurse ended, Rife claimed she “did not remember”; however, her employer reported that she was “fired for misconduct.” (PSI, p.21.) That Rife was fired from her last nursing position approximately eight years ago and has been unemployed and reliant upon her aging

parents for her financial support and housing for “the last three years” does not indicate stability in her more recent background. (PSI, pp.14, 19, 21.)

The district court considered all of the relevant information and imposed an appropriate sentence in this case. Rife’s underlying sentence is appropriate in light of her ongoing mendacity and refusal to accept responsibility for her actions, her denial of her substance abuse problem and lack of amenability to treatment, and her unwillingness to comply with the conditions of supervision in the community, as evinced by her poor performance both while on Court Compliance monitoring and subsequently while on probation. Given any reasonable view of the facts, Rife has failed to establish an abuse of discretion.

Conclusion

The state respectfully requests this Court to affirm Rife’s conviction and sentence.

DATED this 8th day of March, 2018.

/s/ Lori A. Fleming
LORI A. FLEMING
Deputy Attorney General

VICTORIA RUTLEDGE
Paralegal

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 8th day of March, 2018, served a true and correct copy of the attached RESPONDENT'S BRIEF by emailing an electronic copy to:

MAYA P. WALDRON
DEPUTY STATE APPELLATE PUBLIC DEFENDER

at the following email address: briefs@sapd.state.id.us.

/s/ Lori A. Fleming
LORI A. FLEMING
Deputy Attorney General