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### State v. Baldwin Appellant's Brief Dckt. 45225

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	
	)	NO. 45225
Plaintiff-Respondent,	)	
	)	TWIN FALLS COUNTY NO. CR42-16-6874
v.	)	
	)	
ANTHONY BALDWIN,	)	APPELLANT'S BRIEF
	)	
Defendant-Appellant.	)	
_____	)	

STATEMENT OF THE CASE

Nature of the Case

Anthony Baldwin pled guilty to possession of methamphetamine and was sentenced to a suspended five-year fixed term, and placed on probation. Mr. Baldwin violated the terms of his probation and the district court revoked probation and executed the underlying sentence. Mr. Baldwin asserts the district court abused its discretion by failing to reduce his sentence upon revoking probation.

## Statement of the Facts & Course of Proceedings

Mr. Baldwin was stopped by a police officer while he driving a car that had a bad muffler and was blowing large clouds of exhaust. (R., pp.11-16.) The officer arrested Mr. Baldwin on an outstanding warrant, and Mr. Baldwin admitted that he had drug-related items in his car. *Id.* The officer seized drug paraphernalia containing methamphetamine and the State filed a criminal complaint charging Mr. Baldwin with possession of methamphetamine. *Id.* Mr. Baldwin waived his right to a preliminary hearing, was bound over into the district court, and an information was filed charging him with possession of methamphetamine. (R., pp.40-42, 53-55.)

Mr. Baldwin pled guilty as charged; in exchange, the State agreed to recommend a unified sentence of six years, with three years fixed, and for the court to retain jurisdiction. (R., pp.59-71.) The district court sentenced Mr. Baldwin to a suspended five-year fixed term and placed him on probation, with the condition that he complete drug court. (R., pp.124, 185-191.) A short time later, the State filed a motion to revoke Mr. Baldwin's probation alleging that he violated the terms of his probation in multiple ways including by failing to complete drug court and absconding supervision. (R., pp.153-169.) Mr. Baldwin admitted to violating the terms of his probation. (R., p.181; Tr. 5/22/17, p.5, L.11 – p.8, L.13.)

During the disposition hearing, Mr. Baldwin requested that the district court allow him to continue on probation or, alternatively, reduce the fixed portion of his sentence. (Tr. 6/8/17, p.13, L.1 – p.18, L.5.) The district court, however, revoked Mr. Baldwin's probation and executed the previously suspended five-year fixed term. (R., pp.193-197; Tr. 6/8/17, p.19, Ls.18-21.) Mr. Baldwin filed a timely Notice of Appeal. (R., pp.203-206.)

## ISSUE

Did the district court abuse its discretion when failed to reduce Mr. Baldwin's five-year fixed sentence upon revoking his probation?

## ARGUMENT

### The District Court Abused Its Discretion When It Failed To Reduce Mr. Baldwin's Five-Year Fixed Sentence Upon Revoking His Probation

Mr. Baldwin asserts that, given any view of the facts, the district court abused its discretion when it failed to reduce his five-year fixed term upon revoking his probation. Where a defendant contends that the sentencing court imposed an excessively harsh sentence, the appellate court will conduct an independent review of the record giving consideration to the nature of the offense, the character of the offender, and the protection of the public interest. Where a probationer is found to have willfully violated one or more terms of probation, the district court has the discretion to determine whether to revoke probation and, if so, whether to reduce the underlying sentence. The governing criteria or objectives of criminal punishment are: (1) protection of society; (2) deterrence of the individual and the public generally; (3) the possibility of rehabilitation; and (4) punishment or retribution for wrongdoing.

Mr. Baldwin clearly has a drug problem and he needs treatment. He began using methamphetamine at the age of 17 and, while he has had periods of sobriety, he has thus far been unable to totally abstain from meth use. (PSI, pp.15-16.)<sup>1</sup> Mr. Baldwin demonstrated that he was not ready to participate in the Drug Court program and it is certainly understandable why the district court revoked his probation. However, Mr. Baldwin repeatedly accepted responsibility for his actions, telling the arresting officer that he had drug item in his car, pleading guilty to the

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<sup>1</sup> Citations to the 97-page electronic file containing the Presentence Investigation Report and attached documents will use the designation "PSI" in this Brief.

possession charge, and admitting his probation violations. (R., pp.11-16, 59-71, 81; Tr. 5/22/17, p.5, L.11 – p.8, L.13.) He also enjoys the support of his wife and had been working to reconcile with his family. (PSI, pp.39-41; Tr. 6/8/17, p.15, L.16 – p.16, L.12.)

Idaho courts recognize that substance abuse issues, acceptance of responsibility, and the support of family are all mitigating factors that should counsel a district court to impose a less severe sentence. *See State v. Nice*, 103 Idaho 89 (1982); *State v. Shideler*, 103 Idaho 593 (1982); *State v. Sanchez*, 117 Idaho 51 (Ct. App. 1990). In light of the mitigating factors that exist in this case, Mr. Baldwin asserts the district court should have reduced the fixed portion of his sentence upon revoking his probation. By doing so, the court would have provided Mr. Baldwin with an incentive to take all of the substance abuse classes he could while in Department of Correction custody in the hopes of demonstrating to the parole board that he could safely be released back into the community and reconcile with his family at an earlier date.

#### CONCLUSION

Mr. Baldwin respectfully requests that this Court reduce his sentence as it deems appropriate.

DATED this 7<sup>th</sup> day of March, 2018.

\_\_\_\_\_/s/\_\_\_\_\_  
JASON C. PINTLER  
Deputy State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 7<sup>th</sup> day of March, 2018, 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:

ANTHONY BALDWIN  
INMATE #81456  
SICI  
PO BOX 8509  
BOISE ID 83707

RANDY J STOKER  
DISTRICT COURT JUDGE  
E-MAILED BRIEF

L CARLOS RODRIGUEZ  
OFFICE OF THE PUBLIC DEFENDER  
E-MAILED BRIEF

KENNETH K JORGENSEN  
DEPUTY ATTORNEY GENERAL  
CRIMINAL DIVISION  
E-MAILED BRIEF

\_\_\_\_\_/s/\_\_\_\_\_  
EVAN A. SMITH  
Administrative Assistant

JCP/eas