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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,)	NO. 45279
)	
v.)	CANYON COUNTY NO. CR 2016-2269
)	
RAYMOND CARL CASTANEDA,)	
)	APPELLANT'S BRIEF
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

After Raymond Castaneda pled guilty to felony driving under the influence with a persistent violator enhancement, the district court sentenced him to a unified term of ten years, with five years fixed. After a period of retained jurisdiction, the district court placed Mr. Castaneda on probation for a period of ten years. Mr. Castaneda appeals from his judgment of conviction and asserts that his sentence is excessive in light of the mitigating factors in his case.

Statement of Facts and Course of Proceedings

Mr. Castaneda pled guilty to felony DUI and being a persistent violator after an officer stopped him for allegedly speeding and crossing the center line. (R., p.10, 5/2/17 Tr., p.3, Ls.7–10, p.7, L.11–p.9, L.1; Aug., pp.1–5.) In exchange for his plea, the State agreed to recommend that the court retain jurisdiction.¹ (5/2/17 Tr., p.3, Ls.7–10.)

At sentencing, the State proposed a unified term of ten years, with five years fixed, and a rider, for the DUI, and a seven-year indeterminate term on the persistent violator enhancement. (6/19/17 Tr., p.5, L.22–p.6, L.2.) Defense counsel asked that the court place Mr. Castaneda on probation, without recommending a specific sentence. (6/19/17 Tr., p.7, Ls.7–18.) The court followed the State’s recommendation and imposed a ten-year term, with five years fixed, and retained jurisdiction. (6/19/17 Tr., p.10, Ls.12–15; R., pp.98–99.) The court also suspended his driver’s license for five years. (6/19/17 Tr., p.10, Ls.23–24; R., p.99.) After a period of retained jurisdiction, the district court placed Mr. Castaneda on probation for a period of ten years. (Augmentation, p.12.) Mr. Castaneda timely appealed. (R., pp.101–03.)

ISSUE

Did the district court abuse its discretion when it sentenced Mr. Castaneda to ten years, with five years fixed, and suspended his license for five years?

¹ Mr. Castaneda filed a motion to suppress evidence obtained as the result of an unlawful seizure, which was denied by the district court. (R., pp.50-68, 78-85.) He entered a guilty plea, but, at the change of plea hearing, neither party indicated whether Mr. Castaneda was conditionally pleading guilty to preserve his right to appeal from the order denying the suppression motion. (See 5/2/17 Tr.) Thus, on appeal, Mr. Castaneda is not seeking to challenge the denial of his suppression motion. However, the court’s Guilty Plea Advisory and Form indicated that Mr. Castaneda’s plea was a conditional guilty plea, as he marked “YES” to the question “Is this a conditional guilty plea in which you are reserving your right to appeal any pre-trial issues?” (Augmentation, p.4.) Further, the Notice of Appeal indicates as one issue on appeal “Did the District Court err in denying the Defendant’s Motion to Suppress,” and the notice requested preparation of the transcripts of the suppression hearings. (R., p.102.) Mr. Castaneda reserves the right to challenge the validity of his guilty plea.

ARGUMENT

The District Court Abused Its Discretion When It Sentenced Mr. Castaneda To Ten Years, With Five Years Fixed, And Suspended His License For Five Years

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. Mr. Castaneda’s sentence is excessive in light of the mitigating evidence in this case, including his past ability to stay sober, motivation for treatment, supportive family, job skills, accountability, and remorse.

Mr. Castaneda has struggled with alcohol for much of his life—he started drinking at fourteen and this is his fourth DUI conviction. (PSI, pp.9, 17–18, 20.) But his last conviction of any kind was in 2003, and after his release in 2008, Mr. Castaneda cleaned up his act. (PSI, pp.17–18, 20.) He bought a house, got married, had his three youngest children, and showed he can live a crime-free life. (PSI, pp.12–14.) Despite his prior success, Mr. Castaneda understands the importance of treatment to help him be successful going forward. (PSI, pp.17–18.) In part because of these considerations, he has only a moderate risk of reoffending. (PSI, p.19.)

Mr. Castaneda has the motivation and support needed to stay sober going forward. In the presentence investigation, he cited his family and work as the two most important things in his life. (PSI, p.18.) His family is supportive of him and will help keep him on track. (PSI, pp.13,

15.) At the time of this offense, he lived with his parents, wife, and four children. (PSI, pp.13–

14.) Mr. Castaneda earned his bachelor’s degree in business management in 2014, and has spent most of his time working in sales. (PSI, pp.15–16.)

Finally, Mr. Castaneda understands the severity of this offense, has taken full accountability for his actions, and truly wants to lead a productive, law-abiding life going forward. He told the court at sentencing:

I just wanted to apologize for my actions, my mistakes. I shouldn’t have been drinking and driving. I knew that. 14 years ago, you know, I made my mistakes, and now my worst nightmare is coming back. And I haven’t been in a courtroom for a long time. And I’ve got four kids, I’ve got a house—I’ve bought a house since I’ve been out, I’ve got a bachelor’s degree, I’ve maintained full-time jobs.

I think probation—I just want to keep being a productive member of society and just keep working, providing for my family. My kids need me. They need me a lot. I’ve got cars that I’ve bought, my house, I’ve got my parents, I’ve got a lot of people that will help me stay straight.

And I think the outpatient programs and treatments, that will really help me out. And I just want a chance to just prove that I could keep doing what I’m doing, and not one mistake that comes and haunts me for the rest of my life. I mean, I’ve been out for almost nine years, and I wish this never would have happened.

And I apologize for being here. And I apologize for—to you and the cops. The most I apologize to my family for putting them in this position, and my kids. I’ve got a thirteen year old, a seven year old, a five year old, and a two year old that really need me.

And probation and doing right—I mean, a house—whatever it is that I could be there for them and support them. And I’m just sorry that it came to this. And like I said, this is my worst nightmare coming back to haunt me. I wish I’d never done what I did.

And it’s been over almost a year and a half, and I haven’t gotten in trouble, I have no speeding tickets, no nothing. You know, I can prove that I can do this and keep working and keep providing for my family, and, you know, not just going away and losing everything that I’ve built up to.

Like I said, I got a bachelor’s degree three years ago in business management. And I just want to keep doing right. You know, I made a mistake, and like I said, I apologize for that. I just—you know, I just don’t want to be thrown away. I know I have a past, and that was 14 years ago. And that just keeps haunting me and haunting me, and I don’t want it to haunt me no more.

(6/19/17 Tr., p.8, L.10–p.10, L.6.)

In light of these mitigating factors, the district court abused its discretion by sentencing Mr. Castaneda to ten years, with five years fixed, and by suspending his license for five years.

CONCLUSION

Mr. Castaneda respectfully requests that this Court reduce his underlying sentence to five years, with two years fixed, and reduce his driver's license suspension as it deems appropriate.

DATED this 25th day of January, 2018.

_____/s/_____
SALLY J. COOLEY
Deputy State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 25th day of January, 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:

RAYMOND CARL CASTANEDA
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DISTRICT COURT JUDGE
E-MAILED BRIEF

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_____/s/_____
EVAN A. SMITH
Administrative Assistant

MPW/eas