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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 45354
Plaintiff-Respondent,)	
)	CANYON COUNTY NO. CR 2017-2737
v.)	
)	
MARTIN J. BOSMA, JR.,)	APPELLANT'S BRIEF
)	
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Martin J. Bosma, Jr. appeals from his judgment of conviction for domestic battery-traumatic injury. Mr. Bosma pleaded guilty and the district court imposed a unified sentence of ten years, with six years fixed. Mr. Bosma now appeals, and he asserts that the district court abused its discretion by imposing an excessive sentence.

Statement of the Facts & Course of Proceedings

On February 25, 2017, a Canyon County Sheriff's Deputy responded to a report that Mr. Bosma was threatening to harm his wife and their children. (Presentence Investigation Report (*hereinafter*, PSI), p.2.) Mr. Bosma's wife reported that she and Mr. Bosma had gotten into an argument and that she had hit her that night. (PSI, p.3.) She also reported that on a previous occasion, Mr. Bosma had attempted to strangle her while one of their children was in the room. (PSI, p.3.) Mr. Bosma adamantly denied attempting to strangle his wife. (PSI, p.5.)

Mr. Bosma was charged with attempted strangulation and domestic battery in the presence of children. (R., p.16.) He pleaded guilty to an amended charge of domestic battery-traumatic injury. (R., p.32.) The district court imposed a unified sentence of ten years, with six years fixed. (R., p.58.) Mr. Bosma appealed. (R., p.60.) He asserts that the district court abused its discretion by imposing an excessive sentence.

ISSUE

Did the district court abuse its discretion when it imposed a unified sentence of ten years, with six years fixed, upon Mr. Bosma following his conviction plea of guilty to domestic battery-traumatic injury?

ARGUMENT

The District Court Abused Its Discretion When It Imposed A Unified Sentence Of Ten Years, With Six Years Fixed, Upon Mr. Bosma Following His Plea Of Guilty To Domestic Battery-Traumatic Injury

“It is well-established that “[w]here a sentence is within statutory limits, an appellant has the burden of showing a clear abuse of discretion on the part of the court imposing the sentence.” *State v. Pierce*, 150 Idaho 1, 5 (2010) (quoting *State v. Jackson*, 130 Idaho 293, 294 (1997) (alteration in original)). Here, Mr. Bosma's sentence does not exceed the statutory

maximum. *See* I.C. § 18-903; § 18-918(2). Accordingly, to show that the sentence imposed was unreasonable, Mr. Bosma “must show that the sentence, in light of the governing criteria, is excessive under any reasonable view of the facts.” *State v. Strand*, 137 Idaho 457, 460 (2002).

“‘Reasonableness’ of a sentence implies that a term of confinement should be tailored to the purpose for which the sentence is imposed.” *State v. Adamcik*, 152 Idaho 445, 483 (2012) (quoting *State v. Stevens*, 146 Idaho 139, 148 (2008)).

In examining the reasonableness of a sentence, the Court conducts an independent review of the entire record available to the trial court at sentencing, focusing on the objectives of criminal punishment: (1) protection of society; (2) deterrence of the individual and the public; (3) possibility of rehabilitation; and (4) punishment or retribution for wrongdoing.

Stevens, 146 Idaho at 148. “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.” *State v. Delling*, 152 Idaho 122, 132 (2011).

At the sentencing hearing, Mr. Bosma took responsibility for his actions, stating, “I’m fully responsible for the decision – the poor decisions and behaviors – negative behaviors which included my verbal and physical abuse of my wife.” (Tr., p.25, Ls.9-13.) He apologized to his children for hurting their mother in front of them and emphasized that it was “none of their faults. It was all mine. And I’m sorry.” (Tr., p.27, Ls.19-23.)

Further, Mr. Bosma acknowledged that he had a problem with alcohol and had been drinking recently. At the sentencing hearing, he stated, “I convinced myself that I can drink again, that after 12 years underneath my belt that I can actual drink again.” (Tr., p.26, Ls.15-17.) Mr. Bosma admitted that he had drank about a bottle of whiskey on the day in question and had been drinking like that for “the past six months.” (PSI, p.5.) He acknowledged that drinking had caused him problems “in all aspects and relationships in my life” but that “with a good support

network, VA, church, AA, and friends” he could remain sober. (PSI, p.12.) Mr. Bosma could receive support through the VA due to his service in the Army, from which he was honorably discharged in 1999. (PSI, p.10.)

Mr. Bosma was proud of the fact that he had provided financial support for his family. (Tr., p.29, Ls.1-4.) He had been employed in the same job for the past eight years and believed that all of his prior employers would give him positive references. (Tr., p.28, L.21 – p.29, L.7.) The fact that Mr. Bosma had a positive employment history is a reason to believe that he could succeed at probation, which is what his attorney requested. (Tr., p.23, Ls.9-12.)

Considering that Mr. Bosma accepted responsibility for his actions, apologized to his wife and children, acknowledged his problem with alcohol, and had a history of steady employment, Mr. Bosma respectfully submits that the district court abused its discretion by imposing a sentence of ten years, with six years fixed.

CONCLUSION

Mr. Bosma respectfully requests that this Court reduce his sentence as it deems appropriate. Alternatively, he requests that his case be remanded to the district court for a new sentencing hearing.

DATED this 8th day of March, 2018.

_____/s/_____
JUSTIN M. CURTIS
Deputy State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 8th 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:

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_____/s/_____
EVAN A. SMITH
Administrative Assistant

JMC/eas