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### State v. Caudill Appellant's Reply Brief Dckt. 45445

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	
	)	
Plaintiff-Respondent,	)	NO. 45445
	)	
v.	)	BONNEVILLE COUNTY
	)	NO. CR 2016-7929
	)	
VESTAL CAUDILL,	)	APPELLANT'S
	)	REPLY BRIEF
Defendant-Appellant.	)	
_____	)	

STATEMENT OF THE CASE

Nature of the Case

Pursuant to a plea agreement, Vestal Dean Caudill pled guilty to one count of possession of methamphetamine. He received a unified sentence of six years, with one year fixed. Mr. Caudill filed an Idaho Criminal Rule 35 (*hereinafter*, Rule 35) motion, which was denied. On appeal, Mr. Caudill contends that the district court erred by failing to reduce his sentence in light of the additional information submitted in conjunction with his Rule 35 motion.

This Reply Brief is necessary to correct the erroneous recitation of Mr. Caudill's Twin Falls County sentence in case number CR42-16-11126.

## Statement of the Facts and Course of Proceedings

The statement of the facts and course of proceedings were previously articulated in Mr. Caudill's Appellant's Brief. They need not be repeated in this Reply Brief, but are incorporated herein by reference thereto.

## ISSUE

Did the district court abuse its discretion when it declined to reduce Mr. Caudill's sentence pursuant to his Idaho Criminal Rule 35 Motion?

## ARGUMENT

### The District Court Abused Its Discretion When It Failed To Reduce Mr. Caudill's Sentence In Light Of The New Information Offered In Support Of His Rule 35 Motion

In Mr. Caudill's Appellant's Brief, the plea agreement was recited, and footnote two noted:

The original plea agreement was for six years, with one year fixed, but provided that the sentence would be suspended and Mr. Caudill would be placed on probation for four years. (R., p.85.) However, Mr. Caudill had another case, Twin Falls County case number CR-4216-11126, in which he was serving eight years, with five years fixed, for possession of methamphetamine with intent to deliver, so the probation portion of the agreement was not viable, and the parties essentially agreed to amend that agreement so that Mr. Caudill would serve the time, and the sentence in this case would be concurrent with the Twin Falls case. (4/24/17 Tr., p.7, Ls.4-17, p.8, L.13 – p.9, L.8, p.12, Ls.11-13.)

(Appellant's Brief, p.3 n. 2.) However, while the total sentence in Twin Falls County case number CR42-16-11126 for possession of methamphetamine with intent to deliver was correctly written as eight years; Mr. Caudill was actually only sentenced to *three years fixed*. The Appellant's Brief recited the sentence as eight years, with five years fixed, which was erroneous.

CONCLUSION

Mr. Caudill respectfully requests that this Court reduce his sentence as it deems appropriate. Alternatively, he requests that the order denying his Rule 35 motion be vacated and the case remanded to the district court for further proceedings.

DATED this 10<sup>th</sup> day of April, 2018.

\_\_\_\_\_/s/\_\_\_\_\_  
SALLY J. COOLEY  
Deputy State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 10<sup>th</sup> day of April, 2018, I served a true and correct copy of the foregoing APPELLANT'S REPLY BRIEF, by causing to be placed a copy thereof in the U.S. Mail, addressed to:

VESTAL CAUDILL  
INMATE #52815  
C/O BONNEVILLE COUNTY  
SHERIFF'S OFFICE  
605 N CAPITAL AVENUE  
IDAHO FALLS ID 83402

JOEL E TINGEY  
DISTRICT COURT JUDGE  
E-MAILED BRIEF

JOHN THOMAS  
BONNEVILLE COUNTY PUBLIC DEFENDER  
E-MAILED BRIEF

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

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

SJC/eas