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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 45446
Plaintiff-Respondent,)	
)	Bannock County Case No.
v.)	CR-2016-12522
)	
BRANDON JEFFREY ALLAN,)	
)	RESPONDENT'S BRIEF
Defendant-Appellant.)	
_____)	

Issue

Is Allan’s sentencing challenge barred by the doctrine of invited error?

Allan’s Sentencing Challenge Is Barred By The Doctrine Of Invited Error

Pursuant to a binding Rule 11 plea agreement, Allan pled guilty to trafficking in methamphetamine (28 grams or more, but less than 200 grams) and possession of methamphetamine with intent to deliver, and the parties stipulated to concurrent unified sentences of eight years, with four years fixed. (R., pp.137-39, 155.) The district court followed the plea agreement and imposed concurrent unified sentences of eight years, with four years

fixed. (R., pp.173-76.) Allan filed a notice of appeal timely from the judgment of conviction. (R., pp.187-89.)

“Mindful that the district court follow[ed] the plea agreement and imposed the agreed-upon sentence,” Allan nevertheless asserts that his concurrent unified sentences of eight years, with four years fixed, are excessive. (Appellant’s brief, pp.2-4.) Allan provides no argument in support of his claim. Allan requested the sentences he received and is therefore precluded by the invited error doctrine from challenging the sentences on appeal.

A party is estopped, under the doctrine of invited error, from complaining that a ruling or action of the trial court that the party invited, consented to or acquiesced in was error. State v. Carlson, 134 Idaho 389, 402, 3 P.3d 67, 80 (Ct. App. 2000). The purpose of the invited error doctrine is to prevent a party who “caused or played an important role in prompting a trial court” to take a particular action from “later challenging that decision on appeal.” State v. Blake, 133 Idaho 237, 240, 985 P.2d 117, 120 (1999). This doctrine applies to sentencing decisions as well as to rulings during trial. State v. Leyva, 117 Idaho 462, 465, 788 P.2d 864, 867 (Ct. App. 1990).

Pursuant to the binding Rule 11 plea agreement, signed by Allan, the parties stipulated to the imposition of concurrent unified sentences of eight years, with four years fixed. (R., pp.137-38.) At sentencing, Allan’s counsel requested that the district court “honor the Rule 11 agreement.” (8/14/17 Tr., p.11, Ls.17-18.) The district court followed the plea agreement and imposed concurrent unified sentences of eight years, with four years fixed. (R., pp.173-76.) On appeal, Allan acknowledges that he “received the sentences he requested.” (Appellant’s brief, p.1.) Because Allan received the very sentences he requested, he cannot claim on appeal that the

sentences are excessive. Therefore, Allan's claim of an abuse of sentencing discretion is barred by the doctrine of invited error and Allan's sentences should be affirmed.

Conclusion

The state respectfully requests this Court to affirm Allan's convictions and sentences.

DATED this 16th 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 16th day of March, 2018, served a true and correct copy of the attached RESPONDENT'S BRIEF by emailing an electronic copy to:

JUSTIN M. CURTIS
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