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### State v. Glazier Respondent's Brief Dckt. 45467

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	
	)	NO. 45467
Plaintiff-Respondent,	)	
	)	Ada County Case No.
v.	)	CR-FE-2016-8574
	)	
RONALD LEE GLAZIER,	)	
	)	RESPONDENT'S BRIEF
Defendant-Appellant.	)	
_____	)	

Issue

Has Glazier failed to establish that the district court abused its discretion by denying his Rule 35 motion for reduction of sentence?

Glazier Has Failed To Establish That The District Court Abused Its Sentencing Discretion

Pursuant to a plea agreement, Glazier pled guilty to felony DUI (prior felony DUI conviction within 15 years) and possession of methamphetamine, and the state dismissed charges for DWP (more than two within five years), leaving the scene of an accident, and possession of drug paraphernalia, as well as a persistent violator enhancement. (R., pp.83-85, 97-98, 144-50.)

The district court imposed a unified sentence of 10 years, with five years fixed, for felony DUI, and a consecutive five-year indeterminate sentence for possession of methamphetamine. (R., pp.162-66.) Glazier filed a notice of appeal timely from the judgment of conviction. (R., pp.167-69.) He also filed a timely Rule 35 motion for reduction of sentence, which the district court denied. (R., pp.172-73, 180-83.)

Glazier asserts that the district court abused its discretion by denying his Rule 35 motion for reduction of sentence because he reiterated his desire to provide for his daughter and assist his parents, and because – as stated on the record at the sentencing hearing – he accepted responsibility, has support from family and friends, and expressed his regret and insight. (Appellant’s brief, pp.3-5; 9/22/17 Tr., p.6, Ls.15-18; p.13, Ls.3-6; p.15, L.24 – p.16, L.13; p.18, L.21 – p.19, L.11; p.22, L.24 – p.24, L.25; p.26, Ls.17-21; PSI, pp.48-51.<sup>1</sup>) There are two reasons why Glazier’s argument fails. First, Glazier requested the sentence he received and is therefore precluded by the invited error doctrine from challenging the sentence on appeal. Second, even if this Court reviews the merits of Glazier’s claim, he has failed to establish an abuse of discretion in the denial of his Rule 35 request for leniency.

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

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<sup>1</sup> PSI page numbers correspond with the page numbers of the electronic file “Glazier 45467 psi.pdf.”

as to rulings during trial. State v. Leyva, 117 Idaho 462, 465, 788 P.2d 864, 867 (Ct. App. 1990).

At sentencing, Glazier's counsel requested an aggregate sentence of "five years or less fixed ... with sort of a lengthy tail." (9/22/17 Tr., p.16, Ls.18-21; p.18, Ls.16-19.) The court granted Glazier's request and imposed an aggregate unified sentence of 15 years, with five years fixed. (R., pp.162-66.) Because Glazier received the sentence he requested, he cannot claim on appeal that it is excessive or that the district court abused its discretion by declining to reduce the sentence. Therefore, Glazier's claim of an abuse of sentencing discretion is barred by the doctrine of invited error.

Even if this Court considers the merits of Glazier's claim, he has still failed to establish an abuse of discretion. If a sentence is within applicable statutory limits, a motion for reduction of sentence under Rule 35 is a plea for leniency, and this court reviews the denial of the motion for an abuse of discretion. State v. Huffman, 144 Idaho, 201, 203, 159 P.3d 838, 840 (2007). To prevail on appeal, Glazier must "show that the sentence is excessive in light of new or additional information subsequently provided to the district court in support of the Rule 35 motion." Id. Glazier has failed to satisfy his burden.

Glazier provided no new information in support of his Rule 35 motion. He merely provided a letter in which he requested a reduction of the fixed portion of his sentence because he still wished to help his ailing parents and "be a parent" to his daughter, and a second letter from his sister stating that she and their parents "could use some help" due to their health issues. (R., pp.174-79.) However, information with respect to Glazier's parents' and sister's health problems, and Glazier's desire to assist his parents and be there for his daughter, was before the district court at the time of sentencing. (PSI, pp.15, 48, 51; 9/22/17 Tr., p.15, L.24 – p.16, L.13;

p.18, L.21 – p.19, L.11; p.24, Ls.19-25; p.26, Ls.17-21.) Because Glazier presented no new evidence in support of his Rule 35 motion, he failed to demonstrate in the motion that his sentence was excessive. Having failed to make such a showing, he has failed to establish any basis for reversal of the district court’s order denying his Rule 35 motion.

Conclusion

The state respectfully requests this Court to affirm the district court’s order denying Glazier’s Rule 35 motion for reduction of sentence.

DATED this 9th day of May, 2018.

/s/ Lori A. Fleming  
LORI A. FLEMING  
Deputy Attorney General

VICTORIA RUTLEDGE  
Paralegal

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 9th day of May, 2018, served a true and correct copy of the attached RESPONDENT’S BRIEF by emailing an electronic copy to:

BRIAN R. DICKSON  
DEPUTY STATE APPELLATE PUBLIC DEFENDER

at the following email address: [briefs@sapd.state.id.us](mailto:briefs@sapd.state.id.us).

/s/ Lori A. Fleming  
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Deputy Attorney General