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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,)	NO. 45509
)	
v.)	BINGHAM COUNTY NO. CR 2011-8975
)	
BRYCE COLE DIXEY TETON,)	
)	APPELLANT'S BRIEF
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Bryce Cole Dixey Teton appeals from the district court's order denying his Idaho Criminal Rule 35(a) motion. Mindful of the relevant authority, he asserts that the district court abused its discretion when it denied his motion.

Statement of the Facts and Course of Proceedings

After entering a guilty plea, Mr. Teton was convicted of one count of grand theft by receiving/possession of stolen property, and the district court imposed a sentence of eight years, with two years fixed, but retained jurisdiction. (R., pp.74-76.) Subsequently, the district court

relinquished its jurisdiction. (R., p.80.) In August of 2017, Mr. Teton filed an Idaho Criminal Rule 35(a) motion to correct an illegal sentence (*hereinafter*, Rule 35(a) motion). In that motion, he argued that his sentence was illegal because the district court failed to order a mental health evaluation by a neutral psychiatrist, and the face of the record showed that he had a serious mental health condition; as such, he argued his sentence was illegal. (R., p.172.) Mr. Teton also moved to withdraw his guilty plea pursuant to I.C.R. 33(c). (R., p.173.)

The district court denied the motions. (R., pp.175-79.) It noted that Mr. Teton underwent a mental health evaluation prior to sentencing and that Idaho law did not “require a sentencing court to appoint more than one mental-health evaluator,” and thus Mr. Teton’s sentence was not illegal from the face of the record. (R., p.178.) The district court went on to state that Mr. Teton’s motion “refers to the manner in which his sentence was imposed” (R., p.178.) And it held that such a motion was not timely as a motion under I.C.R. 35(b) had to be filed “within 120 days of the date his sentence was imposed.” (R., p.179.) It further held that it no longer had jurisdiction to adjudicate Mr. Teton’s I.C.R. 33(c) motion as its jurisdiction “to grant a motion to withdraw a plea of guilty . . . expires once the judgment becomes final,” and Mr. Teton’s “sentence became final on March 19, 2012.” (R., p.179.) Mr. Teton filed a notice of appeal timely from the district court’s order denying his motions. (R., p.181.)

ISSUE

Did the district court abuse its discretion when it denied Mr. Teton’s Idaho Criminal Rule 35(a) and 33(c) motions?

ARGUMENT

The District Court Abused Its Discretion When It Denied Mr. Teton's Idaho Criminal Rule 35(a) And 33(c) Motions

Mr. Teton asserts that the district court abused its discretion when it denied his Rule 35(a) motion and his Rule 33(c) motion. A district court's denial of a Rule 35(a) motion or a Rule 33(c) motion is reviewed for an abuse of discretion. *State v. Ballard*, 114 Idaho 799, 801 (1988); *State v. Arthur*, 145 Idaho 219, 222 (2008) (citation omitted). Appellate courts conduct a multi-tiered inquiry when an exercise of discretion is reviewed on appeal. "The sequence of the inquiry is: (1) whether the lower court rightly perceived the issue as one of discretion; (2) whether the court acted within the outer boundaries of such discretion and consistently with any legal standards applicable to specific choices; and (3) whether the court reached its decision by an exercise of reason." *State v. Hedger*, 115 Idaho 598, 600 (1989) (citation omitted).

This Court has held that an illegal sentence is one that is clear from the face of the record in that it does not "involve significant questions of fact nor an evidentiary hearing to determine [its] illegality." *State v. Clements*, 148 Idaho 82, 87 (2009). Mindful of *Clements*, Mr. Teton asserts that his sentence is illegal because the district court failed to order a mental health evaluation by a neutral psychiatrist, and his mental health condition is clear from the face of the record. Therefore, the district court abused its discretion when it denied his Rule 35 motion because it failed to reach its decision through an exercise of reason when it held that his sentence was not illegal from the face of the record.

With respect to Rule 33(c) motions, this Court has held, "Absent a statute or rule extending its jurisdiction, the trial court's jurisdiction to amend or set aside a judgment expires once the judgment becomes final, either by expiration of the time for appeal or affirmance of the judgment on appeal. *State v. Jakoski*, 139 Idaho 352, 355 (2003) (footnote omitted). Mindful of

Jakoski, Mr. Teton asserts that the district court abused its discretion when it denied his Rule 33(c) motion because it failed to apply the correct legal standard.

CONCLUSION

Mr. Teton respectfully requests that this Court reverse the district court's order denying his Rule 35(a) and Rule 33(c) motions and remand the case for further proceedings.

DATED this 3rd day of May, 2018.

_____/s/_____
REED P. ANDERSON
Deputy State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 3rd day of May, 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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IMSI
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DARREN B SIMPSON
DISTRICT COURT JUDGE
E-MAILED BRIEF

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

_____/s/_____
EVAN A. SMITH
Administrative Assistant

RPA/eas