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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,)	NO. 45529
)	
v.)	ADA COUNTY NO. CR-FE-2014-12677
)	
JOSE MANUEL CRUZ, JR.,)	APPELLANT’S REPLY BRIEF
)	
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Jose Cruz appeals from the district court’s order revoking his probation. He argues the district court abused its discretion by revoking his probation.

Statement of Facts and Course of Proceedings

The statement of facts and course of proceedings were articulated in Mr. Cruz’s Appellant’s Brief. They are not repeated here, but are incorporated by reference. (*See App. Br.*, pp.1–2.)

ISSUE

Did the district court abuse its discretion when it revoked Mr. Cruz's probation and executed his underlying sentence of ten years, with three years fixed?

ARGUMENT

The District Court Abused Its Discretion When It Revoked Mr. Cruz's Probation And Executed His Underlying Sentence Of Ten Years, With Three Years Fixed

As argued in his Appellant's Brief, Mr. Cruz submits the district court abused its discretion by revoking his probation. (*See* App. Br., pp.2–4.) This Reply Brief responds to two of the State's factual assertions in its brief regarding Mr. Cruz's conduct on probation. First, the State argued Mr. Cruz met his probation officer only one time during his two years of probation. (Respt. Br., p.5.) Mr. Cruz contends, however, that he had four probation officers within one year and had seen other probation officers "constantly." (Tr. Vol. II,¹ p.9, Ls.13–15.) Second, the State noted Mr. Cruz was arrested on a warrant after five months of absconding. (Respt. Br., p.3.) Mr. Cruz wishes to clarify that he turned himself "over to the jail in Ada County at the front office." (R., p.163.) Based on these facts, and those in the Appellant's Brief, Mr. Cruz maintains the district court should have reinstated his probation. (*See* App. Br., pp.2–4.)

¹ There are two transcripts on appeal. The first, cited as Volume I, contains the admit/deny hearing. The second, cited as Volume II, contains the probation violation disposition hearing.

CONCLUSION

Mr. Cruz respectfully requests that this Court reduce his sentence as it deems appropriate. Alternatively, he respectfully requests that this Court vacate the district court's order revoking his probation and remand his case for a new disposition hearing.

DATED this 3rd day of May, 2018.

_____/s/_____
JENNY C. SWINFORD
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 REPLY BRIEF, by causing to be placed a copy thereof in the U.S. Mail, addressed to:

JOSE MANUEL CRUZ JR
INMATE #103398
ISCC
PO BOX 70010
BOISE ID 83707

DEBORAH A BAIL
DISTRICT COURT JUDGE
E-MAILED BRIEF

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ADA COUNTY PUBLIC DEFENDER
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E-MAILED BRIEF

_____/s/_____
EVAN A. SMITH
Administrative Assistant

JCS/eas