

Uldaho Law

## Digital Commons @ Uldaho Law

---

Not Reported

Idaho Supreme Court Records & Briefs

---

9-5-2018

### State v. Reynolds Appellant's Brief Dckt. 45656

Follow this and additional works at: [https://digitalcommons.law.uidaho.edu/not\\_reported](https://digitalcommons.law.uidaho.edu/not_reported)

---

#### Recommended Citation

"State v. Reynolds Appellant's Brief Dckt. 45656" (2018). *Not Reported*. 4720.  
[https://digitalcommons.law.uidaho.edu/not\\_reported/4720](https://digitalcommons.law.uidaho.edu/not_reported/4720)

This Court Document is brought to you for free and open access by the Idaho Supreme Court Records & Briefs at Digital Commons @ Uldaho Law. It has been accepted for inclusion in Not Reported by an authorized administrator of Digital Commons @ Uldaho Law. For more information, please contact [annablaine@uidaho.edu](mailto:annablaine@uidaho.edu).

ERIC D. FREDERICKSEN  
State Appellate Public Defender  
I.S.B. #6555

KIMBERLY A. COSTER  
Deputy State Appellate Public Defender  
I.S.B. #4115  
322 E. Front Street, Suite 570  
Boise, Idaho 83702  
Phone: (208) 334-2712  
Fax: (208) 334-2985  
E-mail: documents@sapd.state.id.us

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	
	)	
Plaintiff-Respondent,	)	NO. 45656
	)	
v.	)	ADA COUNTY NO. CR01-17-39671
	)	
ERIK DAVID REYNOLDS,	)	
	)	APPELLANT'S BRIEF
Defendant-Appellant.	)	
_____	)	

STATEMENT OF THE CASE

Nature of the Case

Erik David Reynolds pled guilty to possession of methamphetamine and the district court sentenced him to seven years, with two years fixed, without retaining jurisdiction. On appeal, Mr. Reynolds contends that in light of his addiction and his potential for rehabilitation, the district court abused its discretion by imposing an excessive sentence without retaining jurisdiction.

Statement of the Facts and Course of Proceedings

Mr. Reynolds pulled into a business parking lot at midnight and was approached by a police officer. (PSI, p.183.) He explained to the officer that he was having car problems and

admitted driving with a suspended license. (PSI, p.183.) A police K-9 unit arrived and the drug dog alerted to Mr. Reynolds' car. (PSI, p.183.) As a result of the ensuing search, the officers found empty baggies coated with methamphetamine powder, along with syringes. (PSI, p.183.) Mr. Reynolds informed the officer he was a recovering addict and had recently relapsed, and he admitted the methamphetamine was his. (PSI, pp.3, 184.) He was arrested and charged with possession of a controlled substance, along with possession of paraphernalia, and driving without privileges. (PSI, pp.184, 196; R., pp.6, 17.) At the time of his arrest, Mr. Reynolds was on parole for a previous drug possession offense. (PSI, pp.7, 15; Tr., p.22, Ls.14-20.)

Pursuant to an agreement with the State, Mr. Reynolds pled guilty to possession of a controlled substance and the State recommended a prison term of seven years, with two fixed, and to have the misdemeanor charges dismissed. (Tr., p.3, L.17 – p.12. L.5; R., p.39.) Mr. Reynolds requested a five-year sentence, with one year fixed; although he had previously completed the CAPP rider program and had previously been placed on probation, Mr. Reynolds implored the district court to retain jurisdiction and allow him another chance at treatment and programming on a rider. (PSI, p.6; Tr., p.18, L.15 – p.21, L.16.) The district court declined Mr. Reynolds' recommendations and adopted the State's instead, sentencing Mr. Reynolds to seven years, with two years fixed, without retaining jurisdiction. (Tr., p.23, Ls.17-24; R., p.39.) Mr. Reynolds filed a Notice of Appeal that is timely from that judgment. (R., p.42.)

### ISSUE

Did the district court abuse its discretion by sentencing Mr. Reynolds to an excessive term of seven years, two fixed, for possessing methamphetamine, and by declining to retain jurisdiction?

## ARGUMENT

### The District Court Abused Its Discretion When It Sentenced Mr. Reynolds To An Excessive Term Of Seven Years, With Two Fixed, Without Retaining Jurisdiction

#### A. Introduction

Mr. Reynolds is addicted to methamphetamine and he needs and desires treatment. In light of his addiction and his strong potential for overcoming that addiction, the district court's imposition of an excessive sentence, without retaining jurisdiction, represents an abuse of the court's sentencing discretion.

#### B. Standard Of Review

When a defendant challenges his sentence as excessively harsh, the appellate court will conduct an independent review of the record giving consideration to the nature of the offense, the character of the offender, and the protection of the public interest. *State v. Miller*, 151 Idaho 828, 834 (2011). The appellate court reviews the district court's sentencing decisions for an abuse of discretion, which occurs if the district court imposed a sentence that is unreasonable, and thus excessive, "under any reasonable view of the facts." *State v. Strand*, 137 Idaho 457, 460 (2002); *State v. Toohill*, 103 Idaho 565, 568 (Ct. App. 1982). "A sentence is reasonable if it appears necessary to accomplish the primary objective of protecting society and to achieve any or all of the related goals of deterrence, rehabilitation, or retribution." *Miller*, 151 Idaho at 834. When reviewing the length of a sentence, the Court considers the entire sentence. *State v. Oliver*, 144 Idaho 722 (2007).

The district court also has the discretion to retain jurisdiction. *See* I.C. § 19-2601(4). The primary purpose of retaining jurisdiction is to afford the trial court additional time for evaluation of the defendant's rehabilitation potential and suitability for probation. *State v. Jones*,

141 Idaho 673, 677 (Ct. App. 2005). The sentencing court's refusal to retain jurisdiction may represent an abuse of discretion if the court lacks sufficient information upon which to conclude that the defendant is not a suitable candidate for probation. *Id.*, at 677.

C. In Light Of Mr. Reynolds' Potential For Rehabilitation, The District Court's Imposition Of An Excessive Sentence, Without Retaining Jurisdiction, Represents An Abuse Of The Court's Sentencing Discretion

Mr. Reynolds was a twenty-five-year old methamphetamine addict at the time of sentencing. (PSI, pp.1, 15.) His drug addiction, and his potential for overcoming that addiction, are mitigating factors in this case. *See State v. Coffin*, 146 Idaho 166, 171 (Ct. App. 2008). Mr. Reynolds began using drugs when he was fourteen, but in more recent years he had turned to methamphetamine, and was using it intravenously at the time of this offense. (PSI, p.13.) He knows he is an addict, and he acknowledges that continued drug use will result in "constant incarceration and the collapse of life structure." (PSI, p.13.) He attributes the destruction of his relationship with his child's mother to his drug addiction (PSI, p.10), and he also sees how his addiction has interfered with his ability to maintain steady employment. (PSI, p.12.) For these reasons, Mr. Reynolds is strongly motivated to change.

Mr. Reynolds' remorse and responsibility also serve as mitigation. *See Coffin*, 146 Idaho at 171. He told his presentence investigator that he is "ashamed" of having relapsed, "[b]ut grateful for a firm hand to come and stop my using." (PSI, p.3.) Although recovery has thus far been elusive for Mr. Reynolds, he has been working to get his addiction under control, and he has made strides. (PSI, p.15.) He embraced the rider programming offered to him in the past, and completed it successfully, and he was able to maintain longer periods of sobriety. (PSI, p.7.) But, obviously, he has hard work yet to do. Prior to sentencing, he wrote:

I understand my history doesn't look good. However, my entire issue lies with drug use and my inability to control my addiction. Prison is an option. It would be

fair given my history to lock me up. But I'm asking you not to throw away my key. Instead help me with my addiction. Give me a chance. Treatment is what I believe will solve my problems. I'm so close to success already (with tools from CSC & MRT). I've worked hard and come a long way. I've never stopped being a father and have always been there for my kids. I'm moving in the right direction already. I guess what I've learned here is I need a bit more help to continue moving the right direction.

(PSI, p.15.)

Mr. Reynolds also has the support of his family. (PSI, p.12.) This support will help him when he is back in the community, and should be considered as mitigation in his case. *See State v. Baiz*, 120 Idaho 292, 293 (Ct. App. 1991). Mr. Reynolds' father continues to be a resource to him, providing Mr. Reynolds with good guidance and meaningful employment, even though their father-son relationship is sometimes tested. (PSI, p.12.) Mr. Reynolds' goal is to successfully run his father's business and be able to take it over. (PSI, p.14.) To this end, he also plans to attend college and study business management and construction management. (PSI, p.11.)

Mr. Reynolds sincerely and desperately wants to be free from the grip of methamphetamine. What Mr. Reynolds needs is treatment, not imprisonment. However, by imposing an excessive prison term, without retaining jurisdiction, the district court denied Mr. Reynolds the opportunity provided by a rider to address his addiction and obtain needed skills, and denied him the chance to demonstrate his potential for using those skills as a successful probationer.

In light of these mitigating factors, and despite the aggravating factors, Mr. Reynolds contends that the district court abused its discretion by imposing an excessive sentence, and by refusing to retain jurisdiction.

CONCLUSION

Mr. Reynolds respectfully requests that this Court remand his case to the district court with instructions that it retain jurisdiction or else reduce his sentence; alternatively, he asks that this Court reduce his sentence.

DATED this 5<sup>th</sup> day of September, 2018.

/s/ Kimberly A. Coster  
KIMBERLY A. COSTER  
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5<sup>th</sup> day of September, 2018, I caused a true and correct copy of the foregoing APPELLANT'S BRIEF, to be served as follows:

KENNETH K. JORGENSEN  
DEPUTY ATTORNEY GENERAL  
E-Service: ecf@ag.idaho.gov

/s/ Evan A. Smith  
EVAN A. SMITH  
Administrative Assistant

KAC/eas