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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 45720
Plaintiff-Respondent,)	
)	ADA COUNTY NO. CR01-17-37290
v.)	
)	
KELLY RUTH PRINGLE)	APPELLANT'S BRIEF
)	
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Pursuant to a plea agreement, Kelly Pringle pled guilty to felony driving under the influence of alcohol. The district court imposed and executed a sentence of ten years, with three years fixed, and declined Ms. Pringle's request that it retain jurisdiction. On appeal, Ms. Pringle asserts the district court abused its discretion by imposing a sentence that is excessive given any reasonable view of the evidence.

Statement of the Facts & Course of Proceedings

On September 9, 2017, a citizen called in a report of a suspected drunk driver. (R., p.10.) Based on this report, police pulled over the car in question, and made contact with the driver, Ms. Pringle, and her passenger. (R., p.10.) Believing Ms. Pringle to be intoxicated, officers arrested her. (R., p.10.) They also obtained a warrant to draw her blood. (R., p.10.) A subsequent test of Ms. Pringle's blood revealed an alcohol level of .348. (PSI pp.92.) Ultimately, Ms. Pringle was charged with driving under the influence ("DUI"); that DUI was charged as a felony based on the allegation that Ms. Pringle had a prior felony DUI conviction within the past fifteen years. (R., pp.6-7.)

A month later, Ms. Pringle entered into a plea agreement with the State. (R., pp.39-42; Tr., p.7, L.22 – p.8, L.11.) Under the terms of that plea agreement, Ms. Pringle agreed to plead guilty as charged, and the State agreed to recommend a sentence of ten years, with four years fixed. (R., pp.39-42; Tr., p.7, L.22 – p.8, L.11.) The court subsequently sentenced Ms. Pringle to ten years, with three years fixed, and declined to retain jurisdiction; it also suspended her driver's license for five years, two years of which would be absolute. (R., pp.43-44, 48-49; Tr. p.30, L.4 – p.31, L.17.)¹

Ms. Pringle timely appealed from the judgment of conviction. (R. pp.55-57.)

ISSUE

Whether the district court abused its discretion when it imposed upon Ms. Pringle a unified sentence of ten years, with three years fixed, for felony DUI.

¹ Ms. Pringle filed a timely motion, pursuant to Idaho Criminal Rule 35, requesting a sentence reduction. (R., p.54.) That motion was denied by the district court. Because Ms. Pringle is not challenging the denial of her Rule 35 motion in this appeal, she is not seeking to augment the record on appeal with a copy of that order.

ARGUMENT

The District Court Abused Its Discretion When It Imposed Upon Ms. Pringle A Unified Sentence Of Ten Years, With Three Years Fixed, For Felony DUI

The district court abused its sentencing discretion and imposed a sentence that is excessive given any view of the facts. Specifically, the district court failed to exercise reason in its sentencing determination, as the sentence ultimately imposed does not adequately account for the mitigating evidence in this case. Based on Ms. Pringle's past sexual, physical, and emotional trauma, her alcohol addiction, her desire to overcome her addiction, and her demonstrated ability to stay sober for long periods of time, the district court erred when it sentenced Ms. Pringle to a prison term of ten years, with three years fixed.

Ms. Pringle was neglected by her mother and stepfather as a child. (PSI, pp.15, 34-36.) For example, at the age of three, she was found in a crib with several bottles of spoiled milk, a diaper hanging off of her, and apparent diaper rash so severe that she was bleeding. (PSI, p.34.) When she was a bit older, she and her brother were left in a parked car across the street from a bar, as her stepfather drank inside. (PSI, p.35.)

Ms. Pringle was also emotionally and physically abused by her stepfather. (PSI, pp.15, 34-36.) For example, if she wet her bed, her stepfather would take her mattress away and force her to sleep on the metal bedsprings. (PSI, p.34.) Once, when she knocked over a bucket of blackberries, she was severely beaten. (PSI, pp.34-25.) On that occasion, the effects of the beating were so severe and obvious that a teacher intervened—taking Ms. Pringle to her own home where Ms. Pringle would be temporarily safe. (PSI, p.35.) As it turns out, this same teacher called the authorities on Ms. Pringle's parents multiple times to report the abuse and neglect in her home. (PSI, pp.35-36.)

Ms. Pringle was not only abused by her parents. When she was about ten years old, she was sexually assaulted by an older (early 20s) neighbor. (PSI, pp.35-36.) Tragically, during that incident, Ms. Pringle was afraid to yell for help because she was afraid that her stepfather would react violently. (PSI, p.36.)

The very same night that Ms. Pringle was sexually assaulted, her mother ran off with another man, leaving Ms. Pringle and her brother with their violent step-father. (PSI, p.36.) However, her mother, accompanied by her maternal grandmother, eventually came back for the children, snatching them from the school bus, “like a Bonnie and Clyde thing.” (PSI, p.36.) Apparently, Ms. Pringle’s mother and grandmother were terrified of Ms. Pringle’s stepfather, and had to grab the children in such a way as to prevent him from chasing after them. (See PSI, p.36.)

Thereafter, Ms. Pringle lived with her maternal grandparents in Washington. (PSI, p.8.) Although her life improved while she was living with her grandparents, it was still remarkably challenging, especially for a child. Her mother was in and out of her life initially, frequently disappearing with her new boyfriend. (See PSI, pp.36-37.) Worse yet, when Ms. Pringle was only twelve, her mother committed suicide, abandoning her once and for all. (PSI, pp.36-37.) Ms. Pringle’s grandparents tried to get her counseling for a time, but as a young teen she resisted dealing with her trauma, and so she hated counseling. (See PSI, p.37.)² Ms. Pringle dropped out of high school only a couple years later. (PSI, pp.10, 37.)

Ms. Pringle started drinking in her twenties. (PSI, pp.11, 19, 38.) It is apparent that alcohol quickly became a huge problem for her. In the early 1990s, shortly before turning 30,

² Ms. Pringle has since been provisionally diagnosed with post-traumatic stress disorder (“PTSD”). (PSI, pp.17-18.)

Ms. Pringle began accruing DUI convictions at a rate of about one per year.³ (PSI, pp.4-6, 38.) Alcohol was also a factor in the demise of her second marriage around the same time. (PSI, pp.9, 38.)

In 1999, Ms. Pringle met her soul mate, Darrelle Pringle. (PSI, p.9.) He would become her fourth husband. (PSI, pp.8-9.) Life with Mr. Pringle was much as it had been previously for Ms. Pringle (*see* PSI, p.38), although her drinking may not have been quite as problematic as it had been for a few years in the early-1990s (*see* PSI, pp.5-6).⁴ But in 2007, the Pringles made the decision to get, and stay, sober together. (PSI, p.38.) Ms. Pringle enrolled in a one-year program at Chrysalis, a sober living facility, and she and her husband both attended group meetings, individual counseling sessions, and church. (PSI, pp.11, 38.) They were on their way to “becoming a stable, healthy, happy couple.” (PSI, pp.38-39.)

But in July of 2007, disaster struck, causing Ms. Pringle to experience an emotional trauma that rivaled even that which was caused by the horrific abuse she suffered as a child. As her husband attempted to cross Chinden Boulevard in Boise, she watched in horror as a car smashed into him, inflicting grievous injuries. (PSI, pp.9, 39.) She saw this horror unfold right before her eyes but, of course, was helpless to do anything to stop it. (*See* PSI, p.39.) Mr. Pringle “suffered extensive brain damage and multiple trauma[s] all over his body.” (PSI, p.39.) After he spent eleven days on life support, and facing a terrible prognosis from his medical providers, Ms. Pringle made the gut-wrenching decision to have him removed from life

³ Four of Ms. Pringle’s six prior DUI offenses were committed from 1992 through 1995. (*See* PSI, pp.4-6.)

⁴ For the twelve years between 1995 and 2007, Ms. Pringle had only one additional DUI conviction, and two other misdemeanor convictions (both for disturbing the peace). (*See* PSI, pp.5-6.) Although it is unclear whether the disturbing the peace offenses were, in fact, alcohol-related, it is reasonable to suspect they were.

support. (PSI, p.39.) She described that decision as the “hardest thing I ever had to do” (PSI, p.39.)

Despite the untimely loss of the love of her life, Ms. Pringle stayed at Chrysalis and managed to stay sober for a few years. (PSI, p.39.) But in 2009, she attended a funeral in Oregon, got to feeling sorry for herself, and drank again. (PSI, p.39.) She ended up with another DUI. (*See* PSI, pp.7, 39.)

Despite her struggle with alcohol addiction, Ms. Pringle is well liked by her employer, has good relationships with her children, and was doing well as a part of the inmate worker program in the Ada County Jail. (PSI, pp.9, 10, 32.) She needs help because, unfortunately, she has thus far been unable to overcome her addiction herself. She was failed as a child, but with treatment, hopefully, she will not be failed again.

The district court gave insufficient weight to the sexual, physical, and emotional trauma Ms. Pringle has suffered throughout her life, and her demonstrated amenability to treatment and ability to stay sober. Because the district court did not adequately weigh the mitigating factors in her case, Ms. Pringle contends that the district court abused its discretion by imposing a sentence higher than that which was reasonable under the unique facts of this case.

CONCLUSION

Ms. Pringle respectfully requests that this Court reduce her sentence as it deems appropriate. Alternatively, she requests that her case be remanded to the district court for a new sentencing hearing.

DATED this 30th day of July, 2018.

/s/ Erik R. Lehtinen
ERIK R. LEHTINEN
Chief, Appellate Unit

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of July, 2018, I served a true and correct copy of the foregoing APPELLANT'S BRIEF, electronically as follows:

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DEPUTY ATTORNEY GENERAL
CRIMINAL DIVISION
Delivered via e-mail to: ecf@ag.idaho.gov

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

ERL/eas