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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 45793
Plaintiff-Respondent,)	
)	BANNOCK COUNTY NO. CR 2016-13955
v.)	
)	
CRAIG ANDREW SORENSON,)	APPELLANT'S BRIEF
)	
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Craig Andrew Sorenson appeals from his judgment of conviction for attempted strangulation. Mr. Sorenson was found guilty following a jury trial and the district court imposed a unified sentence of fifteen years, with five years fixed. He subsequently filed an Idaho Criminal Rule (*hereinafter*, Rule) 35 motion for reduction of sentence, which was denied. Mr. Sorenson appeals, and he asserts that the district court abused its discretion by imposing an excessive sentence.

Statement of the Facts & Course of Proceedings

On October 8, 2016, officers with the Pocatello Police were on patrol in the area of the Benton Street Overpass. (Presentence Investigation Report (*hereinafter*, PSI), p.2.) As they headed east on the bridge they observed a woman holding a small child; the woman began waving them down. (PSI, p.3.) She reported that her ex-husband, Mr. Sorenson, had come to her house and tried to choke her. (PSI, p.3.) Mr. Sorenson told the officers that he had come to the house to talk to his estranged wife about their relationship and to try to reconcile. (PSI, p.5.) He stated that he and his ex-wife were having a conversation and she went into the bathroom and never returned. (PSI, p.5.) Mr. Sorenson denied any physical contact between himself and his ex-wife. (PSI, p.5.)

Mr. Sorenson was charged with attempted strangulation. (R., p.65.) He was found guilty following a jury trial and the district court imposed a unified sentence of fifteen years, with five years fixed. (R., p.468.) Mr. Sorenson appealed. (R., p.479.) He subsequently filed a Rule 35 motion for reduction of sentence, which was denied. (R., pp.491, 496.)

ISSUES

- I. Did the district court abuse its discretion when it imposed a unified sentence of fifteen years, with five years fixed, upon Mr. Sorenson following his conviction for attempted strangulation?
- II. Did the district court abuse its discretion when it denied Mr. Sorenson's Rule 35 motion?

ARGUMENT

I.

The District Court Abused Its Discretion When It Imposed A Unified Sentence Of Fifteen Years, With Five Years Fixed, Upon Mr. Sorenson Following His Conviction For Attempted Strangulation

“It is well-established that ‘[w]here a sentence is within statutory limits, an appellant has the burden of showing a clear abuse of discretion on the part of the court imposing the sentence.’” *State v. Pierce*, 150 Idaho 1, 5 (2010) (quoting *State v. Jackson*, 130 Idaho 293, 294 (1997) (alteration in original)). Here, Mr. Sorenson’s sentence does not exceed the statutory maximum. Accordingly, to show that the sentence imposed was unreasonable, Mr. Sorenson “must show that the sentence, in light of the governing criteria, is excessive under any reasonable view of the facts.” *State v. Strand*, 137 Idaho 457, 460 (2002).

“‘Reasonableness’ of a sentence implies that a term of confinement should be tailored to the purpose for which the sentence is imposed.” *State v. Adamcik*, 152 Idaho 445, 483 (2012) (quoting *State v. Stevens*, 146 Idaho 139, 148 (2008)).

In examining the reasonableness of a sentence, the Court conducts an independent review of the entire record available to the trial court at sentencing, focusing on the objectives of criminal punishment: (1) protection of society; (2) deterrence of the individual and the public; (3) possibility of rehabilitation; and (4) punishment or retribution for wrongdoing.

Stevens, 146 Idaho at 148. “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.” *State v. Delling*, 152 Idaho 122, 132 (2011).

Mr. Sorenson addressed the district court at the sentencing hearing. He stated, “Your Honor, in regards to the incident on October 8th last year, I do regret the decisions, poor decisions I made in my life that led to the events of that evening – whatever the details may have

been. I do apologize for the injuries that Andi sustained. I wish that they had not happened. She is the last person on this earth that I would ever have hoped to see injuries inflicted upon.” (Tr., p.371, Ls.7-15.) Further, contrary to his counsel’s suggestions to the court, “I do not think alcohol is my problem. I think self-esteem issues are. I have made progress in those areas. I have been practicing cycle abuse ending over the course of this year while I was out – I had two jobs while I was out, was being a productive member of the community.” (Tr., p.371, Ls.16-22.)

Finally, he stated, “I have no ill feelings toward Andi. I would like for us both to move on with our separate lives. I’d like to get back into my children’s lives who I have not seen for fifteen months, seen, spoken to, and I am sorry for what transpired.” (Tr. p.371, L.23 – p.372. L.3.) Mr. Sorenson acknowledged causing some bruising and, with regard to strangling, “I may have grabbed a hold of her hoodie to pull her up.” (Tr., p.372, Ls.12-20.)

Further, he explained that, on the night in question, he and his ex-wife were arguing about divorce and child custody when she took out a knife and first threatened him with it before turning it to herself. (Tr., p.373, Ls.17-24.) At that point they began fighting and rolling around, but he emphasized that he “never put my hands around her throat as was claimed in this courtroom.” (Tr., p.373, Ls.17-24.) But, Mr. Sorenson emphasized, “regardless of the details, I made some poor choices that led my even being there, and I do regret that. I regret that we fought and that she was injured during that.” (Tr., p.375, Ls.4-8.)

At the sentencing hearing, Mr. Sorenson accepted responsibility for making poor decisions that led to his being at the house that evening and acknowledged inflicting injuries to his ex-wife. He apologized to her and emphasized that he meant her no harm. He acknowledged having self-esteem issues and stated that he had been practicing cycle abuse ending over the

course of the past year. Considering this information, Mr. Sorenson submits that the district court abused its discretion by imposing a sentence of fifteen years, with five years fixed.

II.

The District Court Abused Its Discretion By Denying Mr. Sorenson's Rule 35 Motion

A sentencing court's grant of denial of a Rule 35 motion is subject to the discretionary standard of review. *State v. Grube*, 126 Idaho 377, 388 (1994). Mr. Sorenson submitted letters from himself and from Katherine Jones in support of his Rule 35 motion. Mr. Jones, who was Mr. Sorenson's former landlord, stated that he had been observing personal growth in Mr. Sorenson, who had been reflecting and questioning how and why he ended up in his present circumstances. (Jones Letter, p.1.)¹ She stated that he had been attending Addiction Recovery, counseling sessions, church services, and reading self-help books. (Jones Letter, p.1.) He had also expressed a desire to work in the kitchen and to clean. (Jones Letter, p.2.)

Mr. Sorenson informed the court in his letter that he had been housed in the Caribou County Jail and had taken full advantage of the programs they offered. (Sorenson Letter, p.1.) He had assisted with LDS indexing and humanitarian services and had attended Bible study and church services. (Sorenson Letter, p.1.) Further, through these programs he had begun to understand his alcohol addiction. (Sorenson Letter, p.1.) Mr. Sorenson understood that punishment for his offense was in order, but he requested that court reduce his time, place in him the retained jurisdiction program, or possibly place him on probation. (Sorenson Letter, p.1.)

Considering this information, Mr. Sorenson respectfully submits that the district court abused its discretion by denying his Rule 35 motion for reduction of sentence.

¹ The letters in support of the Rule 35 motion are contained in pages 57-65 of the electronic document entitled "CONFIDENTIAL CERTIFICATE OF EXHIBITS SORENSON 45793.pdf."

CONCLUSION

Mr. Sorenson respectfully requests that this Court reduce his sentence as it deems appropriate. Alternatively, he requests that his case be remanded to the district court for a new sentencing hearing. Alternatively, he requests that the order denying his Rule 35 motion be reversed and his case remanded for a new Rule 35 hearing.

DATED this 1st day of October, 2018.

/s/ Justin M. Curtis
JUSTIN M. CURTIS
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of October, 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

JMC/eas