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### State v. Cadwallader Appellant's Brief Dckt. 45948

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	
	)	NO. 45948
Plaintiff-Respondent,	)	
	)	ADA COUNTY NO. CR01-17-47504
v.	)	
	)	
JEFFREY ALLEN	)	
CADWALLADER,	)	APPELLANT'S BRIEF
	)	
Defendant-Appellant.	)	
_____	)	

STATEMENT OF THE CASE

Nature of the Case

Jeffery Allen Cadwallader appeals from his judgment of conviction for grand theft. Mr. Cadwallader pleaded guilty and the district court imposed a unified sentence of fourteen years, with two years fixed. Mr. Cadwallader appeals, and he asserts that the district court abused its discretion by imposing an excessive sentence.

Statement of the Facts & Course of Proceedings

On November 23, 2017, officers with the Meridian Police Department attempted to stop a vehicle driven by Chrystal Wright. (Presentence Investigation Report (*hereinafter*, PSI), p.3.)

She failed to stop and led police on a high speed chase. (PSI, p.3.) The vehicle was eventually stopped using a PIT maneuver. (PSI, p.4.) Mr. Cadwallader was a passenger in the vehicle. (PSI, p.4.) He initially provided a false name to the officers. (PSI, p.4.) Officers found a check payable to Oregon FFA Foundation and care of Kevin White and a fake Oregon identification card with the name of Kevin White. (PSI, p.4.) Mr. Cadwallader acknowledged that he was in possession of a stolen credit card. (PSI, p.4.) He felt ashamed and wished the event never happened. (PSI, p.5.)

Mr. Cadwallader was charged with possession of forged notes, bank bills, or checks, three counts of grand theft, and one count of providing false information to law enforcement. (R., p.38.) He pleaded guilty to one count of grand theft and the district court imposed a unified sentence of fourteen years, with two years fixed. (R., p.53.) Mr. Cadwallader appealed. (R., p.57.) He asserts that the district court abused its discretion by imposing an excessive sentence.

### ISSUE

Did the district court abuse its discretion when it imposed a unified sentence of fourteen years, with two years fixed, upon Mr. Cadwallader following his plea of guilty to grand theft?

### ARGUMENT

#### The District Court Abused Its Discretion When It Imposed A Unified Sentence Of Fourteen Years, With Two Years Fixed, Upon Mr. Cadwallader Following His Plea Of Guilty To Grand Theft

“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. Cadwallader’s sentence does not exceed the statutory

maximum. Accordingly, to show that the sentence imposed was unreasonable, Mr. Cadwallader “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. Cadwallader apologized to the court at the sentencing hearing. (Sent. Tr., p.11, Ls.16-18.) He informed the court that his son committed suicide in 2010, and that at the time he was living clean and sober in Oregon and did not know how to deal with it, and he “let it spiral out of control. I let my dope addiction and my criminality get the best of me. That by no means is a cop out. I am guilty of everything that anyone in this courtroom has to say against me and probably more.” (Sent. Tr., p.11, L.25 – p.12, L.9.)

Mr. Cadwallader accepted responsibility and stated that he took ownership of his actions. (Sent. Tr., p.12, Ls.9-10.) He acknowledged that he had been to prison eight times for similar offenses but did not ever have programming. (Sent. Tr., p.12, Ls.12-15.) He informed the court, “I’ve never learned how to deal with loss, with growing up in a broken home, being molested. I never grew or knew – I think at that age I stopped growing because I just pushed it behind me

and pushed it into a closet. I just told my wife right after my mom passed away in May that I was molested. That was last May, sir.” (Sent. Tr., p.12, Ls.14-20.) He explained that “I just let it build up inside of me trying to hide it and being stuck in a vicious cycle. I would like to stand before you and say I’ve broken that cycle, but I haven’t. I don’t have the tools to say this is what I need. I don’t have the strength do to it on my own.” (Sent. Tr., p.12, Ls.21-25.)

Counsel explained that Mr. Cadwallader was raised in a family with no money and he never had the benefit of having a father figure in the home. (Sent. Tr., p.10, Ls.6-9.) She noted that it was clear that there was little supervision in the home and noted that when Mr. Cadwallader was ten years old, his 23-year-old cousin began molesting him, “so it’s no wonder that things really started to spiral out of control for [Mr. Cadwallader] at that point with his family, dealing with those sorts of abuse and he began using substances. I think that’s the heart of what we see here; that he has a significant substance abuse history.” (Sent. Tr., p.10, Ls.10-17.) Counsel emphasized that Mr. Cadwallader had been “forthcoming and honest. He’s been open and sincere about this conduct and the extent of his criminal history.” (Sent. Tr., p.11, Ls.7-12.)

Mr. Cadwallader also acknowledged his substance abuse issues, particularly his struggle with methamphetamine. (PSI, p.25.) He knew that when he was on methamphetamine, “I become this person I don’t even like. I become a super criminal.” (PSI, p.25.) Mr. Cadwallader believed that a drug treatment program was necessary to help him overcome his addiction.

Mr. Cadwallader turned to drugs when his life spiraled out of control; he knew he had a problem and he knew he needed treatment for it. This addiction fueled his criminal activity. Mr. Cadwallader apologized for his actions and accepted responsibility. He had been forthcoming and honest with his attorney and the court. Considering this information,

Mr. Cadwallader respectfully submits that the district court abused its discretion by imposing a sentence of fourteen years, with two years fixed.

CONCLUSION

Mr. Cadwallader 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.

DATED this 15<sup>th</sup> day of November, 2018.

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15<sup>th</sup> day of November, 2018, I caused a true and correct copy of the foregoing APPELLANT’S BRIEF, to be served as follows:

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

JMC/eas