

LAWRENCE G. WASDEN
Attorney General
State of Idaho

PAUL R. PANTHER
Deputy Attorney General
Chief, Criminal Law Division

LORI A. FLEMING
Deputy Attorney General
P.O. Box 83720
Boise, Idaho 83720-0010
(208) 334-4534

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 45914
Plaintiff-Respondent,)	
)	Caribou County Case No.
v.)	CR-2017-783
)	
STEPHEN V. CROUSE,)	
)	RESPONDENT’S BRIEF
Defendant-Appellant.)	
_____)	

Issue

Has Crouse failed to establish that the district court abused its discretion by imposing an aggregate, unified sentence of 18 years, with 10 years fixed, upon his guilty pleas to robbery and two counts of aggravated battery?

Crouse Has Failed To Establish That The District Court Abused Its Sentencing Discretion

Crouse pled guilty to robbery and two counts of aggravated battery, and the district court imposed a unified sentence of 10 years, with eight years fixed, for the robbery conviction, and unified sentences of eight years, with two years fixed, for each aggravated battery conviction. (R., pp.88-91.) The district court ordered the aggravated battery sentences to run concurrently

with each other but consecutively to the sentence for robbery. (R., pp.88-91.) Crouse filed a notice of appeal timely from the judgment of conviction. (R., pp.95-98.)

Crouse asserts the sentences imposed are excessive in light of his acceptance of responsibility, purported remorse, his attempt “to become a better person,” and his mentoring of younger inmates. (Appellant’s brief, pp.2-4.) The record supports the sentence imposed.

When evaluating whether a sentence is excessive, the court considers the entire length of the sentence under an abuse of discretion standard. State v. McIntosh, 160 Idaho 1, 8, 368 P.3d 621, 628 (2016); State v. Stevens, 146 Idaho 139, 148, 191 P.3d 217, 226 (2008). It is presumed that the fixed portion of the sentence will be the defendant’s probable term of confinement. State v. Oliver, 144 Idaho 722, 726, 170 P.3d 687, 391 (2007). Where a sentence is within statutory limits, the appellant bears the burden of demonstrating that it is a clear abuse of discretion. McIntosh, 160 Idaho at 8, 368 P.3d at 628 (citations omitted). To carry this burden the appellant must show the sentence is excessive under any reasonable view of the facts. Id. 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. Id. The district court has the discretion to weigh those objectives and give them differing weights when deciding upon the sentence. Id. at 9, 368 P.3d at 629; State v. Moore, 131 Idaho 814, 825, 965 P.2d 174, 185 (1998) (court did not abuse its discretion in concluding that the objectives of punishment, deterrence and protection of society outweighed the need for rehabilitation). “In deference to the trial judge, this Court will not substitute its view of a reasonable sentence where reasonable minds might differ.” McIntosh, 160 Idaho at 8, 368 P.3d at 628 (quoting Stevens, 146 Idaho at 148-49, 191 P.3d at 226-27). Furthermore, “[a] sentence fixed within the limits

prescribed by the statute will ordinarily not be considered an abuse of discretion by the trial court.” Id. (quoting State v. Nice, 103 Idaho 89, 90, 645 P.2d 323, 324 (1982)).

The maximum prison sentence for robbery is 10 years and for aggravated battery is 15 years. I.C. §§ 18-906, 908, -915(1)(b). The district court imposed unified sentences of 10 years, with eight years fixed, for the robbery conviction, and eight years, with two years fixed, for each aggravated battery conviction, all of which fall well within the statutory guidelines. (R., pp.88-91.) Furthermore, Crouse’s sentences are appropriate in light of the dangerous nature of the offenses and Crouse’s ongoing disregard for the law and the safety of others.

Crouse’s first contact with law enforcement occurred at age 14, when he was arrested for underage drinking. (PSI, p.10.¹) His adult criminal record includes felony convictions for aggravated assault or battery upon certain personnel, assault, “felony escapes – escape from pending felony,” smuggling contraband into prison, burglary, and “domestic violence – habitual.” (PSI, pp.1, 7-10.) Crouse has also been convicted of misdemeanor DUI, driving with a revoked license, and two counts of misdemeanor assault. (PSI, pp.6-9.) Crouse’s criminal record also includes numerous additional misdemeanor charges and one felony charge that were either dismissed or for which the dispositions are unknown. (PSI, pp.6-9.) He has previously served at least three separate prison sentences, but neither these prior legal sanctions nor the confines of a penal setting have deterred him from committing violent crimes. (PSI, p.10.)

In this case, Crouse and two other inmates attempted to escape from the Caribou County jail by choking a deputy and taking her keys, and then grabbing another deputy by the arm. (R., pp.41-42.) Crouse’s claimed acceptance of responsibility, purported remorse, and attempts “to

¹ PSI page numbers correspond with the page numbers of the electronic file “PSI.PDF.”

become a better person,” do not outweigh the seriousness of the offense or his ongoing dangerous criminal behavior.

At sentencing, the district court articulated the correct legal standards applicable to its decision and also set forth in detail its reasons for imposing Crouse’s sentence. (1/12/18 Tr., p.17, L.2 – p.22, L.9.) The state submits that Crouse has failed to establish an abuse of discretion, for reasons more fully set forth in the attached excerpt of the sentencing hearing transcript, which the state adopts as its argument on appeal. (Appendix A.)

Conclusion

The state respectfully requests this Court to affirm Crouse’s conviction and sentences.

DATED this 26th day of November, 2018.

/s/ Lori A. Fleming
LORI A. FLEMING
Deputy Attorney General

ALICIA HYMAS
Paralegal

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 26th day of November, 2018, served a true and correct copy of the attached RESPONDENT'S BRIEF by emailing an electronic copy to:

JUSTIN M. CURTIS
DEPUTY STATE APPELLATE PUBLIC DEFENDER

at the following email address: briefs@sapd.state.id.us.

/s/ Lori A. Fleming
LORI A. FLEMING
Deputy Attorney General

APPENDIX A

Page 16

1 lives.

2 I see completely your thoughts of a freebie,
 3 so to say, as things happen in the jail and then nothing
 4 happens. In regards to that, I think that the prosecutor
 5 was on top of it in saying that a long indeterminate
 6 sentence would -- I'm going to spend many years in prison.
 7 More prison time I don't think will change. I think being
 8 up here away from my family, away from anything that I'm
 9 used to or have known, I don't know a single person in
 10 this whole entire community, state, anything. I think
 11 that could probably weigh against me too. But with a long
 12 indeterminate sentence I think I could benefit from some
 13 supervision once I'm released.

14 If something does happen, if I do go back into
 15 some old patterns or some of my older ways of doing
 16 things, which I'm quite confident is not going to happen,
 17 but I'd still have something to answer to and it won't be
 18 a freebie. I'll be answering to my actions. And I'm
 19 answering to my actions and taking responsibility and
 20 accountability today.

21 I just ask that you use that in going forward
 22 with sentencing. Thank you.

23 THE COURT: Thank you, Mr. Crouse. Mr. Marler, at
 24 this time is there any legal cause why the court shouldn't
 25 proceed with sentencing?

Page 18

1 have to rely upon based upon the way we did this
 2 presentence investigation, is the incident report and the
 3 investigation that was conducted by the Franklin County
 4 sheriff's department.

5 Let me assure you, if you haven't read that
 6 investigation report or if you haven't gone through that
 7 with your attorney, many more individuals were interviewed
 8 than just the participants, the victims and the four
 9 participants in this attempted jail break. As far as I
 10 understand it, every inmate in the pod was interviewed.
 11 So there is a diverse and generalized group of
 12 individuals, both participants, victims, and
 13 nonparticipants, that gave their information and views.

14 Here's what is troubling to me. You do appear
 15 to have been, whether we characterize it as the ring
 16 leader or the motivator, the guy in charge, but the other
 17 thing that is troubling to me is I think, had you had your
 18 way, this would have continued. Mr. Steffens, Mr. Jones,
 19 when they saw this was going backward or downhill, they
 20 went and got on their bunks. You apparently were inciting
 21 others to join in. You were inciting others to gather
 22 together against law enforcement before reinforcements
 23 could be brought in while you had them outnumbered, while
 24 you had what you viewed to be a numbers advantage over
 25 those individuals.

Page 17

1 MR. MARLER: No, Your Honor.

2 THE COURT: Mr. Crouse, I spoke quite a bit in
 3 detail regarding my thoughts and concerns regarding the
 4 facts and circumstances of this case when I sentenced your
 5 codefendant Mr. Steffens. I'm not going to spend as much
 6 time going through what I consider to be, again, a very
 7 scary and disturbing incident that occurred at the local
 8 jail here in Caribou County that is upsetting to me and I
 9 am certain is upsetting to law enforcement and our
 10 community as a whole.

11 I imagine, thank goodness, that what if you
 12 had got out of that facility and you had held up, as had
 13 been planned, somewhere in the community and we had a
 14 circumstance arising out of this jail break that played
 15 out in the community? Those are things that I think
 16 about. Those are the aggravating factors that have
 17 troubled the court. And like I stated, luckily that was
 18 quashed and law enforcement did their job and acted
 19 appropriately. And what could have been a much worse
 20 circumstance and situation was taken care of
 21 appropriately.

22 There are a couple of other issues that I feel
 23 a compulsion to address. I don't want to get particularly
 24 hung up today about who was the ring leader, who wasn't.
 25 I will state that this investigation, and this is all I

Page 19

1 That, coupled with your criminal history, is
 2 extremely disturbing to this court. I don't know the
 3 details of what happened in Oneida County. I've got the
 4 presentence investigation report and I have read that
 5 narrative. I know Judge Dunn imposed a 10 year unified
 6 sentence. Eight years fixed and two years indeterminate.
 7 That tells me that there was some serious aggravating
 8 factors associated with that incident.

9 I know you were only in Idaho for one week
 10 before everything went south on you and you followed your
 11 wife and came to Idaho. I know your criminal history has
 12 nine previous assault charges, that are misdemeanor
 13 charges, of 31 previous misdemeanor charges you've been
 14 charged with.

15 I know you have been charged with 14 felony
 16 charges resulting in five convictions, resulting in two
 17 prison sentences. Of those charges, eight were what I
 18 would characterize as crimes of violence, assault, assault
 19 on certain personnel, attempted strangulation, domestic
 20 violence habitual, and escape charges out of the state of
 21 Colorado. So this is not the first attempt at escaping
 22 and not the first time that you have had those issues
 23 addressed. This is a very troubling criminal history.
 24 It's one that is of great concern to me.

25 Again, I look at you, I look at Mr. Steffens,

1 and I look at Dalton Jones and I think these are young men
2 that have a great deal of potential. You do, Mr. Steffens
3 does, Mr. Jones does. Somewhere or another you have taken
4 a turn and developed an attitude towards laws and towards
5 being a productive member of society, that that isn't an
6 important issue to you.

7 I guess I figured that there were outstanding
8 warrants out of the state of Colorado because you walked
9 away from that facility. As Mr. Marler has pointed out,
10 now not only is there the previous escape charge, but you
11 have another escape charge pending. I'm mindful, Mr.
12 Crouse, of the fact that you're 34 years old. Under Judge
13 Dunn's sentence and under the potential issues you have
14 waiting for you in Colorado, you're likely facing a long
15 period of imprisonment associated with those issues.

16 What I have to focus on is the sentencing
17 criteria that I have to consider and think about. Those
18 are protection of society, punishment, deterrence top that
19 list. I also think that we have to give some weight and
20 consideration to rehabilitation.

21 I hope and expect that the programming and
22 those issues are going to be addressed in the prison
23 system because you're obviously going to be serving some
24 significant period of time in prison in this matter. I
25 think our penal institutions need to be responsive to

1 with another, but consecutive to the Oneida County case
2 and the robbery case in the Caribou County case. So that
3 means you'll serve an additional two years fixed on these
4 aggravated battery charges as a sentence in this matter.

5 The court will advise you that you have 42
6 days to file an appeal should you desire to file one. If
7 you cannot afford the cost associated with an appeal, you
8 may petition the court for leave of court to file an
9 appeal in forma pauperis in this matter.

10 Mr. Wood, anything further for the state?

11 MR. WOOD: No, Your Honor. Thank you.

12 THE COURT: Mr. Marler, anything further for the
13 defense?

14 MR. MARLER: No, Your Honor.

15 THE COURT: I'll remand Mr. Crouse to the custody
16 of the Caribou County sheriff's department to commence
17 serves his sentence in this matter.

18 (Hearing concluded.)
19
20
21
22
23
24
25

1 those issues.

2 The court is going to impose the following
3 sentence. I'm going to impose a unified 10 year sentence
4 on the robbery charge. Eight of those years are fixed and
5 two years will be indeterminate. That will basically
6 mirror the sentence that Judge Dunn issued in the Oneida
7 County case. You'll receive credit for 134 days. I'll
8 impose a fine of \$1,000 on that charge. I'll assess \$800
9 to the public defender fee. I'll leave restitution open
10 for a reasonable period of time. I'll assess court costs
11 and victim's compensation in the statutory amounts. And
12 that charge will run concurrent with the Oneida County
13 charge.

14 On the two counts of aggravated battery, I'm
15 going to impose unified sentences of eight years on each
16 of those. Two years fixed and six years indeterminate.
17 I'll give you credit for 134 days that you have served in
18 local incarceration. I'll assess \$800 fine. I'll leave
19 restitution open. Well, we did restitution on those. I
20 think that was whatever I signed earlier. I'll assess
21 that restitution.

22 Court costs and victim's compensation in the
23 statutory amounts on each of those two counts.

24 The court is going to run those two sentences
25 consecutive one with another. Excuse me. Concurrent one

REPORTER'S CERTIFICATE

1 I, Rodney M. Felshaw, CSR No. SRT-299, Certified
2 Shorthand Reporter, certify:

3 That the foregoing proceedings were taken
4 before me at the time and place therein set forth; that
5 the proceedings were reported stenographically by me and
6 transcribed by me; and that the foregoing is a true and
7 correct record of all proceedings held to the best of my
8 my ability.

9 I further certify that I am not a relative or
10 employee of any attorney or party, nor am I financially
11 interested in the action.

12 IN WITNESS WHEREOF, I set my hand and seal this
13 18th day of May, 2018.
14
15

16
17
18 Rodney M. Felshaw, C.S.R.; R.P.R.
19
20
21

22 Notary Public
23 My commission expires April 6, 2021.
24
25