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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,)	NO. 46059
)	
v.)	JEROME COUNTY NO. CR-2011-697
)	
CHRISTOPHER MARK TAYLOR,)	
)	APPELLANT’S BRIEF
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Christopher Mark Taylor appeals from the district court’s order denying his Idaho Criminal Rule 35(a) motion to correct an illegal sentence. Mindful that Mr. Taylor’s sentence is not illegal on its face, he asserts that the district court abused its discretion by denying his motion.

Statement of Facts and Course of Proceedings

In 2011, Mr. Taylor pled guilty to aggravated battery on a police officer, aggravated assault on a police officer, and to being a persistent violator, after which the court sentenced him

to concurrent fixed life terms. (39844 R.,¹ pp.248–554; *see also* I.C. § 19-2514 (providing that a defendant may be considered a persistent violator after his third felony conviction, and may be sentenced to life in prison)). The court later denied his Rule 35(b) motion for leniency. (39844 R., pp.298–301.) The Court of Appeals affirmed Mr. Taylor’s sentence and the denial of his Rule 35(b) motion. (*See State v. Taylor*, No. 39844, 2013 Unpublished Opinion No. 610 (August 1, 2013).)

In May 2018, Mr. Taylor filed a handful of motions, including the following:

- A Rule 35(a) motion to correct an illegal sentence. (R., pp.22–26.) In that motion, Mr. Taylor explained that he did not know he had a right to refuse to participate in the PSI and that he believed the court would consider an MRI and neuropsychological evaluation at sentencing. (R., pp.23–25.) Thus, he argued that he was sentenced in violation of his Fifth, Sixth, and Fourteenth Amendment rights, and asked that he be resentenced after parts of his PSI are redacted and an MRI and neuropsychological evaluation are provided to the court. (R., pp.23–26.)
- A motion for a change of venue, which argued that he could not have a fair sentencing hearing in Jerome County. (R., pp.27–29.)
- A motion for appointment of counsel. (R., pp.31–34.)
- A motion to redact his PSI to exclude all of the statements he made to the PSI investigator. (R., pp.38–41.)
- A motion for a confidential neuropsychological examination. (R., pp.47–88.)

¹ Citations to “39844 R.” refer to the record created in Mr. Taylor’s earlier appeal, which this Court has augmented into the record in this appeal. (R., p.110.)

The district court denied all of Mr. Taylor’s motions. (R., pp.90–93.) As for the Rule 35(a) motion to correct an illegal sentence, the court explained that because Mr. Taylor did “not allege that the sentence was illegal on the face of the record, the motion is untimely and should be denied.” (R., p.93.)

ISSUE

Did the district court err by denying Mr. Taylor’s Rule 35(a) motion to correct an illegal sentence?

ARGUMENT

The District Court Erred By Denying Mr. Taylor’s Rule 35(A) Motion To Correct An Illegal Sentence

Idaho Criminal Rule 35(a) provides that “[t]he court may correct a sentence that is illegal from the face of the record at any time.” “[T]he term ‘illegal sentence’ under Rule 35 is narrowly interpreted as a sentence that is illegal from the face of the record, i.e., does not involve significant questions of fact or require an evidentiary hearing.” *State v. Clements*, 148 Idaho 82, 86 (2009). “As a general matter, it is a question of law as to whether a sentence is illegal or was imposed in an illegal fashion, and this Court exercises free review over questions of law.” *State v. Schmierer*, 367 P.3d 163, 165 (2016).

As an initial matter, because a Rule 35(a) motion can be brought at any time, the court’s conclusion that Mr. Taylor’s motion was untimely is incorrect. *See* Rule 35(a); R., p.93. Further, mindful that Mr. Taylor did not argue that his sentence is illegal on the face of the record, *see* Rule 35(a), he asserts that his sentence is illegal because he was not informed that he could refuse to participate in the PSI investigation and because he believed that the court would consider an MRI and neuropsychological examination at sentencing. As a result, he contends

that the district court sentenced him in violation of his Fifth, Sixth, and Fourteenth Amendment rights.

CONCLUSION

Mr. Taylor respectfully requests that this Court vacate the order denying his motions and that it remand this case for further proceedings.

DATED this 28th day of December, 2018.

/s/ Maya P. Waldron
MAYA P. WALDRON
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of December, 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

MPW/eas