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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NOS. 46110-2018 & 4611-2018
Plaintiff-Respondent,)	
)	ADA COUNTY NOS.
v.)	CR01-16-40531A & CR-01-16-4-531B
)	
RICHARD DRENNON,)	
)	APPELLANT'S BRIEF
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Richard Drennon was convicted of three counts of forgery and one count of grand theft following two jury trials, and was sentenced to an aggregate unified term of twelve years, with six years fixed. He appeals from his judgment of conviction, arguing the district court abused its discretion when it imposed this sentence upon him considering the mitigating factors that exist in this case.

Statement of Facts and Course of Proceedings

After being released from prison, Mr. Drennon established Justice Barred LLC and Cleanup LLC, which were businesses through which he purported to provide legal services to clients, though he is not licensed as a lawyer in the State of Idaho (or anywhere else). (Tr., p.543, L.24 – p.544, L.1, Presentence Investigation Report (“PSI”), pp.3, 9, 203-08.) Ed Lettunich hired Mr. Drennon to assist him in pursuing a legal action against Zions Bank relating to his family cattle business. (PSI, p.4.) Bashim Sadiku hired Mr. Drennon to help him modify his residential mortgage and prevent the bank from foreclosing on his home. (PSI, p.3.) Based on the services he did, and did not, provide to Mr. Lettunich and Mr. Sadiku, the State charged Mr. Drennon with three counts of forgery and three counts of grand theft. (Cons. R., pp.56-58.)¹ The forgery counts arose out of Mr. Drennon’s business dealings with Mr. Lettunich; and the grand theft counts arose out of Mr. Drennon’s business dealings with Mr. Sadiku. (Cons. R., pp.56-58.)

Mr. Drennon filed a motion to sever the forgery counts from the grand theft counts. (Cons. R., pp.101-04.) The district court granted the motion, finding “there are different crimes alleged, with different elements of proof, against different victims, not close in time, using substantially different methods.” (Cons. R., pp.185-89.) The State proceeded with the forgery charges in CR01-16-40531A (“the forgery case”), and the grand theft charges in CR01-16-40531B (“the grand theft case”). (46110 R., pp.323-24.) The State later filed an Amended Information in the grand theft case, limiting the case to a single count. (47111 R., pp.49-51.)

Mr. Drennon was evaluated by Dr. William Arnold pursuant to Idaho Code § 18-211, and was determined to be competent to stand trial. (Cons. R., pp.66-67, 70-71, 98-99; Conf. Exs., pp.11-12.) The grand theft case was tried to a jury in October 2017. (46111 R., pp.53-56.) On the

first day of a trial, the district court granted Mr. Drennon's motion for a mistrial, and a new trial began with a new jury. (Tr., p.217, Ls.4-12; 46111 R., pp.56, 59-62.) The jury found Mr. Drennon guilty of grand theft. (46111 R., p.79; Tr., p.633, Ls.9-12.) The forgery case was tried to a jury in December 2017. (46110 R., pp.71-74, 82-88.) The jury found Mr. Drennon guilty on all counts. (46110 R., pp.395-97; Tr., p.1092, Ls.8-25.)

The district court sentenced Mr. Drennon on April 11, 2018, after three continuances. (See 46110 R., pp.165-66.) Mr. Drennon was not present at the sentencing hearing as he refused to be transported from prison. (See 46110 R., p.166.) For the forgery case, the district court sentenced Mr. Drennon to three unified terms of four years, with two years fixed, to be served concurrently. For the grand theft case, the district court sentenced Mr. Drennon to a unified term of eight years, with four years fixed, to be served consecutively to the sentence in the forgery case. The judgments of conviction were entered on May 25, 2018, and Mr. Drennon filed timely notices of appeal, through counsel, on June 4, 2018.² (46110 R., pp.144-47, 150-52; 46111 R., pp.148-51.)

¹ The Clerk's Record in this case consists of a Consolidated Record, a Record for Case No. 46110, and a Record for Case No. 46110.

² Mr. Drennon filed motions pursuant to Idaho Criminal Rule 35 for reconsideration of sentence on August 7, 2018. (46110 R., p.154; 46111 R., p.158.) The district court denied the motions in a written order concluding, among other things, that "[n]one of Mr. Drennon's arguments . . . add any new or additional information for this Court to consider." (46110 R., pp.163-71; 46111 R., pp.167-75.) Mr. Drennon does not challenge the district court's decision on appeal in light of *State v. Huffman*, 144 Idaho 201, 203 (2007).

ISSUE

Did the district court abuse its discretion at sentencing?

ARGUMENT

The District Court Abused Its Discretion At Sentencing

A. Introduction

The district court sentenced Mr. Drennon to an aggregate unified term of twelve years, with six years fixed, for criminal actions he took in the course of his business dealings with two individuals. This sentence may well be a life sentence for Mr. Drennon, who was 65 years old at the time of sentencing. The district court imposed this sentence on Mr. Drennon despite the fact that Mr. Drennon provided some services to Mr. Lettunich and Mr. Sadiku, and continues to maintain that he lacked criminal intent. Under any reasonable view of the facts, the sentence was excessive, and should be reduced by this Court on appeal or by the district court on remand.

B. Standard Of Review

This Court reviews sentencing decision for an abuse of discretion. *State v. McIntosh*, 160 Idaho 1, 8 (2016). This Court considers whether the trial court: “(1) correctly perceived the issue as one of discretion; (2) acted within the boundaries of its discretion; (3) acted consistently with the legal standards applicable to the specific choices available to it; and (4) reached its decision by an exercise of reason.” *Lunneborg v. My Fun Life*, 163 Idaho 856, 863 (2018).

C. The District Court Imposed An Excessive Sentence

Generally, when appealing a sentence as an abuse of discretion, the appellant “must establish that, under any reasonable view of the facts, the sentence was excessive considering the objectives of criminal punishment.” *State v. Varie*, 135 Idaho 848, 856 (2001) (citation omitted).

The objectives of criminal punishment are: “(1) protection of society; (2) deterrence of the individual and the public generally; (3) the possibility of rehabilitation; and (4) punishment or retribution for wrong-doing.” *Varie*, 135 Idaho at 856 (quotation marks omitted). The sentence the district court imposed on Mr. Drennon was not reasonable considering these objectives.

Mr. Drennon was 65 years old at the time of sentencing. (Tr., p.1103, Ls.8-10.) He has been married to his wife, Elizabeth, for over 40 years, and has 11 children. (PSI, pp.11-12; Tr., p.1117, Ls.5-12.) Elizabeth worked for her husband’s businesses, and continues to support him. (Tr., p.1117, Ls.5-12.) Mr. Drennon is not a persistent violator, and was assessed as presenting only a moderate risk to reoffend. (PSI, pp.15-16.)

Mr. Drennon does not contest the jury’s verdict, but questions whether the case should have been pursued as a criminal matter. (*See* 46110 R., p.154; 46111 R., p.158.) Though Mr. Drennon has never attended law school and is not authorized to practice law, he has a strong interest in the legal system, and presumably started his businesses out of a desire to help others. (Tr., p.1118, Ls.9-18.) It is undisputed that Mr. Drennon met with Mr. Lettunich and Mr. Sadiku on many occasions, and provided some services to them. (*See* PSI, pp.3-7.) Mr. Drennon accepts the jury’s verdict, but continues to deny that he intended to defraud either Mr. Lettunich or Mr. Sadiku. (Tr., p.1119, Ls.10-13.) While Mr. Drennon’s crimes had real, definite victims, they were largely financial crimes that do not merit a lengthy term of incarceration.

The sentence the district court imposed exceeded even the prosecutor’s recommendation of an aggregate unified term of ten years, with six years fixed. (Tr., p.1112, L.18 – p.1113, L.11.) It was excessive considering the objectives of criminal punishment and thus represents an abuse of discretion.

CONCLUSION

Mr. Drennon respectfully requests that this Court reduce his sentence as it deems appropriate, or remand this case to the district court for a new sentencing hearing.

DATED this 17th day of May, 2019.

/s/ Andrea W. Reynolds
ANDREA W. REYNOLDS
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of May, 2019, I caused a true and correct copy of the foregoing APPELLANT'S BRIEF, to be served as follows:

KENNETH K. JORGENSEN
DEPUTY ATTORNEY GENERAL
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/s/ Evan A. Smith
EVAN A. SMITH
Administrative Assistant

AWR/eas