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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 46113-2018
Plaintiff-Respondent,)	
)	BANNOCK COUNTY NO. CR-2017-186
v.)	
)	
CALEB ADAM HENDERSON,)	APPELLANT'S BRIEF
)	
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Caleb Adam Henderson appeals from his judgment of conviction and the district court’s order suspending his sentence following a period of retained jurisdiction. Mr. Henderson asserts that the district court abused its discretion by imposing an excessive underlying sentence.

Statement of the Facts & Course of Proceedings

On December 13, 2016, Talissa Larsen reported that she had been in an altercation with her husband, Mr. Henderson. (Presentence Investigation Report (*hereinafter*, PSI), p.2.) Mr. Henderson had said that he was going to check on children that lived in another residence;

she became upset because they were not his children and she thought that if he was concerned, he should call the police. (PSI, p.2.) Ms. Larsen reported that Mr. Henderson then slapped her in the face, pushed her down on the bed, and choked her. (PSI, p.3.)

Mr. Henderson was charged with attempted strangulation. (R., p.44.) He pleaded guilty and the district court imposed a unified sentence of nine years, with three years fixed, and the court retained jurisdiction. (R., pp.165, 173.) Following the period of retained jurisdiction, the court suspended the sentence and placed Mr. Henderson on probation for a period of six years. (R., p.180.) Mr. Henderson appealed. (R., p.186.) He asserts that the district court abuse its discretion by imposing an excessive underlying sentence.

ISSUE

Did the district court abuse its discretion when it imposed a unified sentence of nine years, with three years fixed, upon Mr. Henderson following his plea of guilty to attempted strangulation?

ARGUMENT

The District Court Abused Its Discretion When It Imposed A Unified Sentence Of Nine Years, With Three Years Fixed, Upon Mr. Henderson Following His Plea Of Guilty To 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. Henderson’s sentence does not exceed the statutory maximum. Accordingly, to show that the sentence imposed was unreasonable, Mr. Henderson “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).

Looking back on the incident, Mr. Henderson wrote, “I feel like I tore apart a good future and will always feel pain from this crime in my heart.” (PSI, p.4.) Further, he had spent his time in the county jail thinking about what had been happening in his life. He informed the court,

The thing that gets me most is that my kids aren’t being taken care of. Their child support is not being paid. My oldest boy went through driver’s training without me even there.

While I was sitting in the Bannock County Jail, they defaulted me on two of my other kids, and they moved out of state. And now their oldest has no communication with the two youngest. And I was defaulted because I haven’t been able to pursue counsel, because I’m not out working and being able to be able to get the counsel that I need.

And I’ve had [a] mental health evaluation that said that outpatient treatment would be better than inpatient treatment.

(Tr., p.6, L11 – p.7, L.2.)¹ He also informed the court that had a job with Amy’s Kitchen and he would be able to provide for his family. (Tr., p.7, Ls.4-8.) Mr. Henderson therefore requested that the court place him on probation. (Tr., p.6, Ls.8-9.)

¹ Transcript citations are to the September 29, 2017 sentencing hearing.

While he is currently on probation, Mr. Henderson submits that the district court abused its discretion by imposing an underlying sentence of nine years, with three years fixed, in light of his remorse, his acceptance of responsibility, and his concern for his family.

CONCLUSION

Mr. Henderson 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 31st day of January, 2019.

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of January, 2019, 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