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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 46204
Plaintiff-Respondent,)	
)	Jerome County Case No.
V.)	CR27-17-6464
)	
SHENTASHA LYNN BYBEE,)	
)	RESPONDENT'S BRIEF
Defendant-Appellant.)	
_____)	

Issue

Is Bybee's sentencing challenge barred by the doctrine of invited error?

Bybee's Sentencing Challenge Is Barred By The Doctrine Of Invited Error

Bybee drove while intoxicated, ran a stop sign, and crashed into another vehicle, seriously injuring three of the vehicles' occupants and causing the death of three of the passengers. (R., pp.15-17.) The state charged Bybee with three counts of vehicular manslaughter and three counts of aggravated DUI. (R., pp.165-68.) Pursuant to a binding Rule

11 plea agreement, Bybee pled guilty to two counts of vehicular manslaughter and one count of aggravated DUI, the state dismissed the remaining charges, and the parties agreed to recommend concurrent unified sentences of 15 years, with five years fixed. (R., pp.145-47, 171-72; 4/16/18 Tr., p.3, L.22 – p.4, L.18.) At sentencing, Bybee’s counsel requested that the district court “follow the recommendations.” (6/25/18 Tr., p.31, Ls.14-15.) The district court followed the parties’ recommendations and imposed concurrent unified sentences of 15 years, with five years fixed, for the three counts to which Bybee pled guilty. (R., pp.198-202.) Bybee filed a notice of appeal timely from the judgment of conviction. (R., pp.203-06.)

“[M]indful of the invited error doctrine” and that she “received the sentence she requested,” Bybee nevertheless asserts her aggregate unified sentence of 15 years, with five years fixed, is excessive in light of her difficult childhood, her education and employment history, her epilepsy, and her acceptance of responsibility and purported remorse. (Appellant’s brief, pp.3-5.) Bybee’s claim of an abuse of sentencing discretion is barred by the doctrine of invited error.

A party is estopped, under the doctrine of invited error, from complaining that a ruling or action of the trial court that the party invited, consented to or acquiesced in was error. State v. Castrejon, 163 Idaho 19, 21, 407 P.3d 606, 608 (Ct. App. 2017) (review denied Jan. 4, 2018) (citations omitted). This doctrine applies to sentencing decisions as well as to rulings during trial. Id. The purpose of the invited error doctrine is to prevent a party who caused or played an important role in prompting a trial court to take a certain action from later challenging that action on appeal. Id. at 22, 407 P.3d at 609 (citing State v. Blake, 133 Idaho 237, 240, 985 P.2d 117, 120 (1999)).

On appeal, Bybee acknowledges that she “received the [aggregate] sentence she requested.” (Appellant’s brief, p.4.) Indeed, as part of the binding Rule 11, plea agreement, the parties stipulated “to a 15-year sentence with 5 of those years fixed on each count to run concurrent with each other” (4/16/18 Tr., p.4, Ls.15-18), and, at sentencing, Bybee’s counsel requested that the district court “follow the recommendations” and impose an aggregate unified sentence of 15 years, with five years fixed (6/25/18 Tr., p.31, Ls.14-22). The district court granted Bybee’s request and imposed concurrent unified sentences of 15 years, with five years fixed. (R., pp.198-202.) Because Bybee received the very sentences she requested, she cannot claim on appeal that the sentences are excessive. Therefore, Bybee’s claim of an abuse of sentencing discretion is barred by the doctrine of invited error and her sentences should be affirmed.

Conclusion

The state respectfully requests this Court to affirm Bybee’s convictions and sentences.

DATED this 7th day of January, 2019.

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

VICTORIA RUTLEDGE
Paralegal

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 7th day of January, 2019, served a true and correct copy of the attached RESPONDENT'S BRIEF to the attorney listed below by means of iCourt File and Serve:

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/s/ Lori A. Fleming
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