

Uldaho Law

## Digital Commons @ Uldaho Law

---

Not Reported

Idaho Supreme Court Records & Briefs

---

12-10-2018

### State v. Bybee Appellant's Brief Dckt. 46204

Follow this and additional works at: [https://digitalcommons.law.uidaho.edu/not\\_reported](https://digitalcommons.law.uidaho.edu/not_reported)

---

#### Recommended Citation

"State v. Bybee Appellant's Brief Dckt. 46204" (2018). *Not Reported*. 5351.  
[https://digitalcommons.law.uidaho.edu/not\\_reported/5351](https://digitalcommons.law.uidaho.edu/not_reported/5351)

This Court Document is brought to you for free and open access by the Idaho Supreme Court Records & Briefs at Digital Commons @ Uldaho Law. It has been accepted for inclusion in Not Reported by an authorized administrator of Digital Commons @ Uldaho Law. For more information, please contact [annablaine@uidaho.edu](mailto:annablaine@uidaho.edu).

ERIC D. FREDERICKSEN  
State Appellate Public Defender  
I.S.B. #6555

JENNY C. SWINFORD  
Deputy State Appellate Public Defender  
I.S.B. #9263  
322 E. Front Street, Suite 570  
Boise, Idaho 83702  
Phone: (208) 334-2712  
Fax: (208) 334-2985  
E-mail: documents@sapd.state.id.us

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	
	)	NO. 46204-2018
Plaintiff-Respondent,	)	
	)	JEROME COUNTY NO. CR27-17-6464
v.	)	
	)	
SHENTASHA BYBEE,	)	APPELLANT’S BRIEF
	)	
Defendant-Appellant.	)	
_____	)	

STATEMENT OF THE CASE

Nature of the Case

After Shentasha Bybee pled guilty to two counts of vehicular manslaughter and one count of aggravated driving under the influence (“DUI”), the district court imposed an aggregate sentence of fifteen years, with five years fixed. Ms. Bybee appeals. Mindful of the invited error doctrine, she argues the district court abused its discretion by imposing an excessive sentence.

Statement of Facts and Course of Proceedings

In December 2017, the State alleged Ms. Bybee committed three counts of vehicular manslaughter and three counts of aggravated DUI. (R., pp.11–14, 113–16 (amended complaint).)

According to the presentence investigation report (“PSI”),<sup>1</sup> twenty-year-old Ms. Bybee failed to stop at an intersection and collided with another vehicle. (PSI, pp.4–6.) One of the two passengers in Ms. Bybee’s vehicle died, and the other was severely injured. (PSI, pp.5–6.) The other vehicle contained five individuals, including three juvenile passengers. (PSI, p.5.) One adult and one juvenile passenger died. (PSI, pp.5–6.) Two of the other individuals were severely injured. (PSI, pp.5–6.) Ms. Bybee was under the influence of alcohol at the time of the accident. (PSI, p.5.) She was also severely injured from the collision. (PSI, pp.6, 16.)

Ms. Bybee waived a preliminary hearing, and the magistrate bound her over to district court. (R., pp.148–49, 151, 152.) The State filed an Information charging her with three counts of vehicular manslaughter and three counts of aggravated DUI. (R., pp.165–68.) Pursuant to an Idaho Criminal Rule 11 plea agreement, Ms. Bybee pled guilty to amended charges of two counts of vehicular manslaughter and one count of aggravated DUI. (Tr., p.3, L.22–p.5, L.10, p.11, L.24–p.13, L.18; R., pp.176–79 (amended Information).) The stipulated sentence recommendation as part of the plea agreement was fifteen years, with five years fixed, for each count, to be served concurrently. (Tr., p.4, Ls.15–18.)

At sentencing, consistent with the plea agreement, the State and Ms. Bybee requested an aggregate sentence of fifteen years, with five years fixed. (Tr., p.24, Ls.17–19, p.24, L.24–p.25, L.2, p.31, Ls.14–22.) The district court followed agreement and sentenced Ms. Bybee to fifteen years, with five years fixed, for each count, to be served concurrently. (Tr., p.33, L.22–p.34, L.9.) The district court entered a judgment of conviction, and Ms. Bybee timely appealed. (R., pp.198–201, 203–05.)

---

<sup>1</sup> Citations to the PSI refer to the eighty-four page electronic document with the confidential exhibits.

## ISSUE

Did the district court abuse its discretion when it imposed an aggregate sentence of fifteen years, with five years fixed, upon Ms. Bybee, following her guilty plea to two counts of vehicular manslaughter and one count of aggravated DUI?

## ARGUMENT

### The District Court Abused Its Discretion When It Imposed An Aggregate Sentence Of Fifteen Years, With Five Years Fixed, Upon Ms. Bybee, Following Her Guilty Plea To Two Counts Of Vehicular Manslaughter And One Count Of Aggravated DUI

“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, Ms. Bybee’s sentence does not exceed the statutory maximum. See I.C. § 18-4007(3)(b) (fifteen-year maximum for vehicular manslaughter); -8006(1)(a) (fifteen-year maximum for aggravating DUI). Accordingly, to show that the sentence imposed was unreasonable, Ms. Bybee “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).

In this case, although mindful of the invited error doctrine, Ms. Bybee nonetheless asserts the district court abused its discretion by imposing an excessive sentence under any reasonable view of the facts. Ms. Bybee (and the State) requested the district court sentence her in accordance with the plea agreement, and the district court agreed. (Tr., p.24, Ls.17–19, p.24, L.24–p.25, L.2, p.31, Ls.14–22, p.33, L.22–p.34, L.9.) The district court imposed an aggregate sentence of fifteen years, with five years fixed—the sentence she requested. (*See R.*, p.198.) “It has long been the law in Idaho that one may not successfully complain of errors one has acquiesced in or invited. Errors consented to, acquiesced in, or invited are not reversible.” *State v. Abdullah*, 158 Idaho 386, 420-21 (2015). Mindful Ms. Bybee received the sentence she requested, she maintains the district court should have imposed a lesser sentence in light of the mitigating factors.

The mitigating circumstances in this case support a more lenient sentence. For example, Ms. Bybee was extremely remorseful and accepted responsibility for her actions. (*See Tr.*, p.28, L.21–p.29, L.1.) She felt “stupid, guilty, horrible” about the crime. (PSI, p.8.) Additionally, Ms. Bybee was only twenty years old at the time of the offense, and this was her first criminal conviction. (PSI, pp.3, 8–9.) Further, Ms. Bybee had a very difficult childhood. Her father was “a heavy drinker” and abusive. (PSI, p.9.) Her mother attempted suicide, and Ms. Bybee had to live temporarily with her grandparents. (PSI, p.10.) At about eight years old, Ms. Bybee was in a car accident and started having breakthrough seizures shortly thereafter. (PSI, pp.9–10.) She was diagnosed with epilepsy. (PSI, p.16.) Despite her health issues, Ms. Bybee did well in school and

graduated from high school. (PSI, pp.13–14.) She also had steady employment as a flagger. (PSI, p.15.) Her family was the most important thing in her life, and she hoped to go back to school after serving her sentence. (PSI, p.18.) In light of these mitigating factors, but mindful of the invited error doctrine, Ms. Bybee maintains the district court abused its discretion by imposing an excessive sentence.

#### CONCLUSION

Ms. Bybee respectfully requests this Court reduce her sentence as it deems appropriate. In the alternative, she respectfully requests this Court vacate her judgment of conviction and remand her case to the district court for a new sentencing hearing.

DATED this 10<sup>th</sup> day of December, 2018.

/s/ Jenny C. Swinford  
JENNY C. SWINFORD  
Deputy State Appellate Public Defender

#### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10<sup>th</sup> day of December, 2018, I caused a true and correct copy of the foregoing APPELLANT’S BRIEF, to be served as follows:

KENNETH K. JORGENSEN  
DEPUTY ATTORNEY GENERAL  
E-Service: ecf@ag.idaho.gov

/s/ Evan A. Smith  
EVAN A. SMITH  
Administrative Assistant

JCS/eas