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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,)	NO. 46316-2018
)	
v.)	CASSIA COUNTY NO. CR-2008-7380
)	
MARIA ELENA CASTANEDA,)	APPELLANT'S BRIEF
)	
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Maria Castaneda appeals from the district court’s order revoking her probation and executing her sentence of ten years, with two years fixed, entered originally upon her guilty plea to injury to children. Ms. Castaneda asserts the district court abused its discretion by failing to reduce the indeterminate portion of her sentence upon revoking probation.

Statement of the Facts & Course of Proceedings

In 2010, while intoxicated and trying to flee from her abusive ex-boyfriend, Ms. Castaneda had her 13 year old daughter drive her and Ms. Castaneda's other children away from the abusive environment. (PSI, pp.12-13.)¹ A first time driver, Ms. Castaneda's daughter had difficulty maintaining her lane and an officer eventually pulled them over, and subsequently arrested Ms. Castaneda. *Id.*

The State filed a criminal complaint charging Ms. Castaneda with injury to children and with obstructing an officer. (R., pp.25-26.) She waived her right to a preliminary hearing, was bound over into the district court, and an information was filed charging her with the above crimes. (R., pp.37-40.) Ms. Castaneda pled guilty to injury to children; in exchange, the State agreed to dismiss the obstructing charge, and agreed to recommend Ms. Castaneda be placed on probation with an underlying sentence of ten years, with two years fixed. (R., pp.85-101.) At sentencing, the district court followed the State's recommendation and placed Ms. Castaneda on probation for a period of ten years, with an underlying sentence of ten years, with two years fixed. (R., pp.113-21.)

Ms. Castaneda twice admitted to violating the terms of her probation by absconding, and the district court continued her on probation each time. (R., pp.128-47, 154-70.) Ms. Castaneda admitted to violating her probation by absconding a third time, and the district court executed her sentence, but retained jurisdiction. (R., pp.171-89.) After successfully completing her rider, Ms. Castaneda was again placed on probation. (R, pp.192-99.) However, Ms. Castaneda again admitted to violating the terms of her probation, this time by changing residences without

¹ Citations to the Presentence Investigation Report and its attached documents will include the designation "PSI" and the page numbers associated with the 54-page electronic file containing those documents.

permission, failing to keep in contact with her probation officer, leaving Idaho without permission, quitting her job without permission, failing to complete aftercare, and by again absconding supervision. (R., pp.200-10; Tr. 6/26/18.) During the disposition hearing, counsel for Ms. Castaneda asked the district court either to again retain jurisdiction, or alternatively, to reduce the indeterminate portion of her sentence from eight years, to four years. (R., p.211; Tr. 6/29/18, p.7, L.13 – p.8, L.20.) The district court declined to do either and instead revoked Ms. Castaneda’s probation and executed her underlying sentence. (R., pp.211-14; Tr. 6/29/18, p.12, L.21 – p.13, L.8.) Ms. Castaneda filed a timely Notice of Appeal. (R., pp.215-17.)

ISSUE

Did the district court abuse its discretion by failing to reduce the indeterminate portion of Ms. Castaneda’s sentence upon revoking her probation, in light of the mitigating factors that exist in her case?

ARGUMENT

The District Court Abused Its Discretion By Failing To Reduce The Indeterminate Portion Of Ms. Castaneda’s Sentence Upon Revoking Her Probation, In Light Of The Mitigating Factors That Exist In Her Case

Where a probationer admits to willfully violating one or more of the terms of her probation, the decision as to the appropriate disposition is left to the sound discretion of the district court. Ms. Castaneda asserts that the district court abused its discretion by failing to reduce the indeterminate portion of her sentence from eight years, to four years, as her counsel requested during the disposition hearing.

Ms. Castaneda’s criminal actions stem from her addiction to alcohol and controlled substances. She began drinking when she was just 13 years old, and has at various times used marijuana, cocaine, and methamphetamine. (PSI, pp.19-20.) Her criminal actions in this case

were a direct result of her alcohol use. (PSI, pp.12-13.) During her disposition hearing, Ms. Castaneda acknowledged to the district court that she has struggled with her alcoholism and addictions, recognizing that she would get too confident believing she was cured, when in reality her drinking has led to cirrhosis and pancreatitis. (Tr. 6/29/18, p.9, Ls.4-15.) Ms. Castaneda also recognizes that being back in jail has helped put her life back into perspective. (Tr. 6/29/18, p.9, Ls.15-24.)

Idaho Courts recognize that substance abuse and a desire for treatment, is a mitigating factor that should counsel a sentencing court to impose a more lenient sentence. *See State v. Nice*, 103 Idaho 89 (1982). In light of the mitigating factors that exist in her case, Ms. Castaneda asserts that the district court abused its discretion by failing to reduce the indeterminate portion of her sentence, upon revoking her probation.

CONCLUSION

Ms. Castaneda respectfully requests that this Court reduce the indeterminate portion of her sentence from eight years, to four years, or for whatever other relief this Court finds is appropriate.

DATED this 26th day of March, 2019.

/s/ Jason C. Pintler
JASON C. PINTLER
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of March, 2019, I caused a true and correct copy of the foregoing APPELLANT'S BRIEF, to be served as follows:

KENNETH K. JORGENSEN
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/s/ Evan A. Smith

EVAN A. SMITH
Administrative Assistant

JCP/eas