

**IN THE SUPREME COURT OF THE STATE OF IDAHO**

STATE OF IDAHO, )  
 ) No. 46519-2018  
 Plaintiff-Respondent, )  
 ) Jerome County Case No.  
 v. ) CR27-2018-805  
 )  
 JAMIE LYNN CABRAL, )  
 )  
 Defendant-Appellant. )  
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**BRIEF OF RESPONDENT**

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**APPEAL FROM THE DISTRICT COURT OF THE FIFTH JUDICIAL  
DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE  
COUNTY OF JEROME**

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**HONORABLE JOHN K. BUTLER  
District Judge**

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## STATEMENT OF THE CASE

### Nature Of The Case

Jamie Lynn Cabral appeals from her judgment of conviction for possession of methamphetamine with intent to deliver. On appeal, she contends the district court abused its discretion by rejecting her application to drug court and by sentencing her to ten years, with two years fixed.

### Statement Of The Facts And Course Of The Proceedings

Cabral was arrested for trafficking methamphetamine in 2018. (R., p.14.) The underlying facts, set forth in the arresting officer's statement of probable cause, are as follows:

On 2/8/18, at approximately 4:56 p.m., Detective Gates, assisted detectives from the Idaho State Police with the arrest of Cody Elwell for Trafficking methamphetamine, in the parking lot of the Jerome Walmart, located at 2680 South Lincoln, in Jerome, Idaho.

Upon subsequent interviews at the Idaho State Police District IV office in Jerome, Elwell stated that Jamie Cabral was inside the Jerome Walmart. Elwell stated that she was waiting for him, and more likely than not, had in her possession, approximately twelve (12) ounces of methamphetamine.

At approximately 6:43 p.m., Detective Gates entered Walmart and walked towards the self-check out registers, where he located Cabral walking towards the store exit. Detective Gates approached Jamie as she walked towards the south exit of the store and called her by her first name and she responded with yes. Detective Gates identified himself as a police officer and asked to talk with Jamie outside of the store. Detective Gates noticed she had a backpack on her left shoulder and a grocery bag in her hand.

Detective Gates exited the store with Jamie, and continued to speak with her outside. Detective Gates informed Jamie he was aware that she had twelve (12) ounces of meth on her. Detective Gates asked Jamie if the methamphetamine was in her backpack. Jaime asked Detective Gates how he knew it was in the backpack, and then said why me. Jaime reported she had never done this before. Detective Gates asked Jamie for the backpack which contained the methamphetamine.

Detective Gates and Detective Wall transported Jamie to the Idaho State Police District IV office in Jerome. Detective Wall and Detective Delgado opened the backpack and located a white crystal substance. Detective Gates tested the suspected methamphetamine, which was presumptive positive for methamphetamine. The methamphetamine weighed 11.030 ounces.

During the course of the interview Jamie explained she was supplied the methamphetamine from a source in the Boise area and instructed by the source, to subsequently deposit the money into a bank account. Jamie stated that she normally does not handle or sell methamphetamine in as large of quantities as she was caught with that night. Jamie was asked if she possessed any additional controlled substances, weapons, or anything not allowed into the jail, and she said no. Jaime was transported to the Jerome County Jail.

Deputy McRoberts contacted Detective Gates and reported the jail staff located an additional baggie of suspected methamphetamine in Jamie's front pant pocket. Sgt. Barrett and Detective Gates tested a small portion of the suspected methamphetamine, and resulted in a presumptive positive result for methamphetamine.

(PSI, pp.6-7.)

The state charged Cabral by information with one count of trafficking and one count of possession of methamphetamine. (R., pp.75-76.) The state also filed an information part II alleging that Cabral was a persistent violator (R., pp.77-78), and an information part III seeking a sentencing enhancement "under the Uniform Controlled Substance Act" (R., p.79).

The parties eventually reached a settlement agreement. (R., p.105.) Pursuant to that agreement Cabral pleaded guilty to a lesser charge of felony possession of methamphetamine with intent to deliver, and the state dismissed the second count and withdrew the sentencing enhancements. (R., p.105-08, 150.)

The case proceeded to sentencing. (R., pp.120-21.) The district court continued the sentencing hearing so that Cabral could submit an application to drug court (R., pp.120-21), which she did (R., pp.123-32). Thereafter, the district court explained that it, and the drug court evaluation team, rejected her application based on an "overall concern" regarding "the nature of

the underlying charge.” (10/2/18 Tr., p.3, Ls.17-19.) The district court pointed out that “this was a trafficking charge to begin with that got reduced down to a possession with the intent to deliver,” Cabral was “the one that made the arrangements for the methamphetamine at [her codefendant’s] request,” and she “had a significant amount” of methamphetamine on her person. (10/2/18 Tr., p.3, L.19 – p.4., L.5.) The district court told Cabral that based on “the nature of the charge, the team does not believe that you’re appropriate for the program, and so we are not going to be accepting you in.” (10/2/18, Tr., p.4, Ls.6-9.) The court accordingly entered an order stating Cabral “was not accepted” into drug court “based on the nature of the underlying offense.” (R., p.138.)

At the ensuing sentencing hearing the district court imposed a ten year sentence with two years fixed. (R., pp.145-47.) Cabral timely appealed from the judgment of conviction. (R., pp.146-49, 151-54, 160-64.)

## ISSUES

Cabral states the issues on appeal as:

- I. Did the drug court abuse its discretion when it denied Ms. Cabral's application to drug court?
- II. Did the district court abuse its discretion when it imposed a unified sentence of ten years, with two years fixed, upon Ms. Cabral following her plea of guilty to possession of a controlled substance with intent to deliver?

(Appellant's brief, p.6)

The state rephrases the issues as:

- I. Has Cabral failed to show the district court abused its discretion when it concluded she was not suited for drug court because based on the nature of her underlying offense?
- II. Has Cabral failed to show the district court abused its discretion by imposing a sentence of ten years with two years fixed?

## ARGUMENT

### I.

#### Cabral Fails To Show The District Court Erred When It Concluded She Was Not Suited For Drug Court Based On The Nature Of Her Underlying Offense

“No person has a right to be admitted into drug court.” I.C. § 19-5604(1). Consequently, district courts have the discretionary authority to “determine the eligibility of persons who may be admitted in drug court.” *Id.*

The district court explained why it, and the drug court evaluation team, concluded she was not suited for drug court:

THE COURT: ... I will tell you that the team has reviewed the situation. You know, certainly, from your substance abuse evaluation, from your LSI score, you qualify. The team’s overall concern is the nature of the underlying charge, because, as you know, this was a trafficking charge to begin with that got reduced down to a possession with the intent to deliver.

The concern that the team has is, as we understand the facts of the case—or as I understand the facts as explained to the team, that your codefendant, Mr. Elwell, who at one time was in this program and was terminated, that he did plead to the trafficking offense. My understanding is that you were the one that made the arrangements for the methamphetamine at his request and that you had a significant amount on your person.

It’s just—the nature of the charge, the team does not believe that you’re appropriate for the program, and so we are not going to be accepting you in.

(10/2/18 Tr., p.3, L.14 – p.4., L.9.)

Cabral fails to show that this was an abuse of discretion. The district court appropriately weighed the strengths in Cabral’s application—it noted at the outset that based on her “substance abuse evaluation” and “LSI score” she qualified for drug court. (10/2/18 Tr., p.3, Ls.15-17.) But the core function of drug court is helping all of its participants “reduce alcohol and drug abuse and dependency” and “recidivism.” I.C. § 19-5602(5). It is self-evidently inappropriate, and a risk to the other drug court participants who are seeking to *avoid* drugs, to admit a candidate who



was arrested for drug trafficking, and who later pleaded guilty to possession of methamphetamine with intent to deliver. This is precisely why the district court was concerned based on “the nature of the underlying charge,” and rightly concluded that Cabral was not “appropriate for the program.” (10/2/18 Tr., p.3, L.17 – p.4, L.9.)

On appeal Cabral argues that the district court abused its discretion by rejecting her application because she met all the eligibility “criteria set by the drug court.” (Appellant’s brief, p.8.) This argument fails because eligibility requirements are *necessary*, but not *sufficient*, criteria for admission into drug court—because “[n]o person,” even those who meet the eligibility requirements, has a “right to be admitted into drug court.” I.C. § 19-5604(1) (emphasis added). In other words, just because Cabral was arguably *eligible* for drug court does not mean she was a suitable drug court candidate. And because delivering a “significant quantity” of methamphetamine is a fact that weighs heavily against admission into drug court, Cabral fails to show the district court abused its discretion in rejecting her application.

## II.

### Cabral Fails To Show The District Court Abused Its Discretion By Imposing A Sentence Of Ten Years With Two Years Fixed

Where a sentence is within statutory limits, an appellant is required to establish that the sentence is a clear abuse of discretion. State v. Baker, 136 Idaho 576, 577, 38 P.3d 614, 615 (2001) (citing State v. Lundquist, 134 Idaho 831, 11 P.3d 27 (2000)). To carry this burden, Cabral must show that her sentence is excessive under any reasonable view of the facts. Baker, 136 Idaho at 577, 38 P.3d at 615. A sentence is reasonable if appropriate to achieve the primary objective of protecting society, and any or all of the related sentencing goals of deterrence, rehabilitation, or retribution. State v. Wolfe, 99 Idaho 382, 384, 582 P.2d 728, 730 (1978). The

Court reviews the whole sentence on appeal and presumes that the fixed portion of the sentence will be the defendant's probable term of confinement. State v. Oliver, 144 Idaho 722, 726, 170 P.3d 387, 391 (2007). In deference to the trial judge, the Court will not substitute its view of a reasonable sentence where reasonable minds might differ. State v. Toohill, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982).

Cabral's sentence here was reasonable and appropriate to achieving the goals of sentencing. Cabral had a criminal history dating back to 2001, which included felony convictions for harboring a wanted felon and felony possession of a controlled substance. (PSI, pp.8-9.) In both of those cases Cabral was placed on probation, which suggests that probation had no rehabilitative effect on Cabral or her drug use. (See PSI, p.10.) And the district court pointed out that Cabral last used alcohol, marijuana, and methamphetamine in July of 2018—so “there were occasions, even *after* [her] arrest in this matter, that [she] chose to use either alcohol or controlled substances.” (10/15/18 Tr., p.13, Ls.11-24 (emphasis added).)

Furthermore, the district court had justifiable concerns about the facts of this case, and skepticism about Cabral's attempts to minimize her involvement in a “world” that she had been caught participating in:

The codefendant did plead to a trafficking charge. When you say that “this is not my world,” based on your prior history and the facts and circumstances of this case, I don't think that that necessarily rings true, because it was Mr. Elwell who came to you and requested that you obtain and make contact to obtain the methamphetamine that he intended to distribute in the community. It was you who made the arrangements for the purchase of the methamphetamine.

(10/15/18 Tr., p.13, L.25 – p.14, L.9.) The district court reiterated that this was “not a situation where you were distributing methamphetamine to meet your own habit”; this “was a significant quantity” of drugs. (10/15/18 Tr., p.14, L.23 – p.15, L.3.) And Cabral “could have very easily

told Mr. Elwell, ‘No, I am not doing this. I’m done with that life. It’s not my world,’” but she “didn’t do that”—instead, Cabral “chose to willingly participate” without “any” apparent “hesitation.” (10/15/18 Tr., p.15, Ls.19-24.)

On appeal Cabral focuses on some purported “mitigating factors,” but she fails to show that a sentence of ten years, with two years fixed, was an abuse of discretion. (See Appellant’s brief, pp. 11-13.) To the contrary, the imposed sentence was well within the court’s discretion.

### CONCLUSION

The state respectfully requests this Court affirm the district court’s order denying Cabral’s admission into drug court, and affirm the judgment of conviction.

DATED this 8th day of October, 2019.

/s/ Kale D. Gans  
KALE D. GANS  
Deputy Attorney General

### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 8th day of October, 2019, served a true and correct copy of the foregoing BRIEF OF RESPONDENT to the attorney listed below by means of iCourt File and Serve:

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/s/ Kale D. Gans  
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KDG/dd