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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NOS. 46613-2018 & 46614-2018
Plaintiff-Respondent,)	
)	ADA COUNTY NOS. CR01-18-13492 &
v.)	CR01-18-38335
)	
JACOB LEE BEUTLER,)	APPELLANT'S BRIEF
)	
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Jacob Lee Beutler appeals from the district court's Judgment of Conviction and Order of Commitment in each of his cases. Mr. Beutler was sentenced to a unified sentence of seven years, with three years fixed, for his possession of a controlled substance conviction in CR01-18-13492 (Docket Number 46613) and five years, with three years fixed, for his eluding conviction in CR01-18-38335 (Docket Number 46614). He asserts that the district court abused its discretion in sentencing him to excessive sentences without giving proper weight and consideration to the mitigating factors that exist in his cases.

Statement of the Facts & Course of Proceedings

On October 22, 2018, Informations were filed charging Mr. Beutler with two counts of possession of a controlled substance and possession of drug paraphernalia, in CR01-18-13492 (Docket Number 46613), and eluding, possession of a controlled substance, operating a motor vehicle while under the influence, failing to notify upon striking a fixture, resisting and/or obstructing, and possession of drug paraphernalia, in CR01-18-38335 (Docket Number 46614). (R., pp.47-48, 111-113.) The charges in each case resulted from police contact with Mr. Beutler after his vehicle was reported near closed businesses. (PSI, pp.1-3.)¹

Pursuant to a plea agreement, Mr. Beutler entered a guilty plea to one count of possession of a controlled substance, in CR01-18-13492, and eluding, operating a motor vehicle while under the influence, and resisting and/or obstructing, in CR01-18-38335. (R., pp.63, 121-122.) The remaining charges were dismissed. (R., pp.67, 137.)

At sentencing, the prosecution recommended unified sentences of seven years, with three years fixed, for the possession of a controlled substance charge, and five years, with two years fixed, for the eluding charge. (Tr., p.10, Ls.8-12.) Defense counsel requested an eighteen month, determinate sentence. (Tr., p.10, Ls.22-24.) In CR01-18-13492, the district court imposed a unified sentence of seven years, with three years fixed. (R., pp.67-68.) In CR01-18-38335, the district court imposed a unified sentence of five years, with three years fixed, for the eluding conviction, and six months each for the operating a motor vehicle while under the influence and resisting and/or obstructing convictions. (R., pp.137-139.) The convictions were ordered to be served concurrently. (R., pp.137-139.) Mr. Beutler filed a Notice of Appeal timely

¹ For ease of reference, the electronic file containing the Presentence Investigation Report and attachments will be cited as “PSI” and referenced pages will correspond with the electronic page numbers contained in this file.

from the district court's Judgment of Conviction and Order of Commitment in each case. (R., pp.70-71, 141-142.) He also filed timely Rule 35 motions.² (R., pp.74-76, 145-148.)

ISSUE

Did the district court abuse its discretion when it imposed, upon Mr. Beutler, unified sentences of seven years, with three years fixed, following his plea of guilty to possession of a controlled substance and five years, with three years fixed, following his plea of guilty to eluding?

ARGUMENT

The District Court Abused Its Discretion When It Imposed, Upon Mr. Beutler, Unified Sentences Of Seven Years, With Three Years Fixed, Following His Plea Of Guilty To Possession Of A Controlled Substance And Five Years, With Three Years Fixed, Following His Plea Of Guilty To Eluding

Mr. Beutler asserts that, given any view of the facts, his unified sentences of seven years, with three years fixed, and five years, with three years fixed, are excessive. Where a defendant contends that the sentencing court imposed an excessively harsh sentence, the appellate court will conduct an independent review of the record giving consideration to the nature of the offense, the character of the offender, and the protection of the public interest. *See State v. Reinke*, 103 Idaho 771 (Ct. App. 1982).

The Idaho Supreme Court has held 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. Jackson*, 130 Idaho 293, 294 (1997) (quoting *State v. Cotton*, 100 Idaho 573, 577 (1979)). Mr. Beutler does not allege that his sentence exceeds the statutory maximum. Accordingly, in order to show an abuse of discretion, Mr. Beutler must show that in light of the

² Mr. Beutler's Rule 35 Motions have not been ruled upon. Should the motions be denied in the future, he reserves the right to challenge the denial of his Rule 35 motions in a separate appeal.

governing criteria, the sentence was excessive considering any view of the facts. *Id.* (citing *State v. Broadhead*, 120 Idaho 141, 145 (1991), *overruled on other grounds by State v. Brown*, 121 Idaho 385 (1992)). The governing criteria or objectives of criminal punishment are: (1) protection of society; (2) deterrence of the individual and the public generally; (3) the possibility of rehabilitation; and (4) punishment or retribution for wrongdoing. *Id.* (quoting *State v. Wolfe*, 99 Idaho 382, 384 (1978), *overruled on other grounds by State v. Coassolo*, 136 Idaho 138 (2001)).

Appellate courts use a four-part test for determining whether a district court abused its discretion: Whether the trial court: (1) correctly perceived the issue as one of discretion; (2) acted within the outer boundaries of its discretion; (3) acted consistently with the legal standards applicable to the specific choices available to it; and (4) reached its decision by the exercise of reason. *Lunneborg v. My Fun Life*, 163 Idaho 856, 863 (2018). Mr. Beutler asserts that the district court failed to give proper weight and consideration to the mitigating factors that exist in his cases and, as a result, did not reach its decision by an exercise of reason.

Specifically, he asserts that the district court failed to give proper consideration to his admitted substance abuse problem and willingness to participate in treatment. Idaho courts have previously recognized that substance abuse and a desire for treatment should be considered as a mitigating factor by the district court when that court imposes sentence. *State v. Nice*, 103 Idaho 89 (1982). Mr. Beutler began using illegal substances at the age of twelve. (PSI, p.16.) As a teenager he abused marijuana, heroin, methamphetamine, and prescription medications. (PSI, pp.16, 66.) He was diagnosed with Stimulant Use Disorder – Amphetamine Type, Moderate – In a Controlled Environment; and Opioid Use Disorder, Severe – In a Controlled Environment. (PSI, p.65.) Mr. Beutler reports that he is ready to remain abstinent and that he is

highly motivated to complete treatment. (PSI, p.69.) Although he has received treatment in the past, including participating and graduating from the Ada County Drug Court program, additional treatment is necessary. (PSI, p.6.) It was recommended that he participate in Level 3 residential treatment. (PSI, pp.5, 73.)

Furthermore, in *State v. Shideler*, 103 Idaho 593, 594 (1982), the Idaho Supreme Court noted that family and friend support were factors that should be considered in the Court's decision as to what is an appropriate sentence. Mr. Beutler has the support of his former employer, Darly Buckner. (PSI, p.5.) Mr. Buckner wrote a letter of support for Mr. Beutler. (R., pp.65, 135.) He noted that Mr. Beutler was a good employee and that he was willing to help him succeed upon release. (R., pp.65, 135.) Mr. Beutler was living in the Buckner's home and noted that Mr. Buckner was a good source of "sober support." (PSI, p.5.)

Additionally, Mr. Beutler has expressed his remorse for committing the instant offense. In *State v. Alberts*, 121 Idaho 204 (Ct. App. 1991), the Idaho Court of Appeals reduced the sentence imposed, "In light of Alberts' expression of remorse for his conduct, his recognition of his problem, his willingness to accept treatment and other positive attributes of his character." *Id.* 121 Idaho at 209. Mr. Beutler has expressed his remorse for committing the instant offense stating, "I am ashamed and beat myself up everyday [sic]." (PSI, p.3.) In the Presentence Investigation he also noted that he was "sorry for the crimes [he] committed . . ." (PSI, p.6.)

Based upon the above mitigating factors, Mr. Beutler asserts that the district court abused its discretion by imposing excessive sentences upon him. He asserts that had the district court properly considered his substance abuse, desire for continued treatment, community support, and remorse, it would have imposed less severe sentences.

CONCLUSION

Mr. Beutler respectfully requests that this Court reduce his sentences as it deems appropriate. Alternatively, he requests that his cases be remanded to the district court for a new sentencing hearing.

DATED this 3rd day of July, 2019.

/s/ Elizabeth A. Allred

ELIZABETH ANN ALLRED
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of July, 2019, I caused a true and correct copy of the foregoing APPELLANT’S BRIEF, to be served as follows:

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/s/ Kylie M. Fournier

KYLIE M. FOURTNER
Administrative Assistant

EAA/kmf