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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NOS. 46747-2019 & 46826-2019
Plaintiff-Respondent,)	
)	JEROME COUNTY NO. CR-2015-1349 &
)	TWIN FALLS CO. NO. CR42-18-11461
v.)	
)	
THOMAS BUCK CHAPUT,)	APPELLANT'S BRIEF
)	
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

In these consolidated cases, Thomas Buck Chaput appeals from the district court's order revoking his probation and executing a modified sentence of ten years, with five years fixed, in Docket No. 46747 and from his judgment of conviction for grand theft in Docket No. 46826, where the district court imposed a concurrent sentence of ten years, with five years fixed.¹ Mr. Chaput submits that the district court abused its discretion by failing to retain jurisdiction, or,

¹ A motion to consolidate the cases is being filed contemporaneously with this Appellant's Brief.

alternatively, by failing to further reduce his sentence in No. 46747 and by imposing an excessive sentence in No. 46826.

Statement of the Facts & Course of Proceedings

While he was on probation for aggravated assault on a law enforcement officer, the State moved to revoke Mr. Chaput's probation for committing petit theft, failing to report to his probation officer, changing his address, failing to maintain employment, absconding, and failing to pay fees. (R., No. 46747, p.71.) Mr. Chaput admitted to the allegations except with regard to changing his address. (R., No. 46747, p.90.)

In a separate case out of Twin Falls County, Mr. Chaput was charged with grand theft for taking property with an aggregate value of over \$50.00 over a period of up to three days from Walmart. (R., No. 46826, p.26.) Mr. Chaput pleaded guilty. (R., No. 46826, p.30.) At a consolidated disposition/sentencing hearing, the district court revoked Mr. Chaput's probation and executed a unified sentence of ten years, with five years fixed and imposed a concurrent sentence of ten years, with five years fixed for grand theft. (R., No. 46747, p.109.) Mr. Chaput appealed. (R., No. 46747, p.114; No. 46826, p.49.)

ISSUE

Did the district court abuse its discretion by failing to retain jurisdiction, or, alternatively, by failing to further reduce Mr. Chaput's sentence in No. 46747 and by imposing an excessive sentence in No. 46826?

ARGUMENT

The District Court Abused Its Discretion By Failing to Retain Jurisdiction, Or Alternatively, By Failing To Further Reduce Mr. Chaput’s Sentence In No. 46747 And By Imposing An Excessive Sentence In No. 46826

“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, Mr. Chaput’s sentences do not exceed the statutory maximum. Accordingly, to show that the sentences imposed were unreasonable, Mr. Chaput “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).

“The primary purpose of the retained jurisdiction program is to enable the trial court to gain additional information regarding the defendant’s rehabilitative potential and suitability for probation.” *State v. Jones*, 141 Idaho 673, 676 (Ct. App. 2005). “[P]robation is the ultimate objective of a defendant who is on retained jurisdiction.” *Id.* at 677. The district court’s decision

to retain jurisdiction is reviewed for an abuse of discretion. *Id.* “There can be no abuse of discretion in a trial court’s refusal to retain jurisdiction if the court already has sufficient information upon which to conclude that the defendant is not a suitable candidate for probation.”

Id.

Counsel for Mr. Chaput noted that Mr. Chaput had been employed full-time at Harkins Concrete prior to the filing of the probation violations. (Sent. Tr., p.9, Ls.19-20.) Counsel also noted that Mr. Chaput had some very successful periods of time while on supervision and that these successes were correlated to the times where he was able to maintain his sobriety. (Sent. Tr., p.10, Ls.1-4.) Counsel emphasized:

For a lengthy period of time, following the programming he received while on his rider, he lived at Stepping Stones, a sober living facility, where he eventually obtained a position for authority as the house manager of that facility, if you will. He was full-time employed, engaged in recovery. He was seeing his older children, engaging in a healthy relationship with them, and eventually he even completed his rider aftercare program. He was at that point in time, Judge, a model probationer.

(Sent. Tr., p.10, Ls.5-14.) However, in 2018 Mr. Chaput moved out of that sober living facility and in with his new girlfriend, and “to be blunt, it’s been a downhill spiral since that moment.” (Sent. Tr., p.11, Ls.15-18.) Counsel made it clear that Mr. Chaput was not blaming his girlfriend and that he was accepting responsibility, but stated, “these two together were not good. They began drinking alcohol, and then they began using methamphetamine together, and new charges and resulting probation violations were soon to follow.” (Sent. Tr., p.11, Ls.19-25.)

With regard to the grand theft charge, counsel noted that Mr. Chaput was charged because he and his girlfriend took a total value of \$134.43 from Walmart. (Sent. Tr., p.15, Ls.3-5.) Counsel noted that Mr. Chaput was high on methamphetamine at the time. (Sent. Tr., p.17, Ls.2-5.) He also noted that, since Mr. Chaput’s conviction for aggravated assault on a law

enforcement officer, Mr. Chaput had committed no acts of violence. (Sent. Tr., p.15, Ls.6-11.)

In the aggravated assault case, Mr. Chaput had overdosed with pills and was attempting suicide when he became involved with law enforcement. (Sent. Tr., p.16, Ls.21-25.)

Mr. Chaput addressed the district court at the hearing. He stated,

What I did wasn't really me at all. Drugs are bad. That's why I never used meth my whole life until – I don't even know why. I was down on myself and thought it was going to help take my life basically and just led me down the wrong road.

I do need some help on drugs and alcohol. That's what I was always asking for. And like, I never got the help when I was out there. So that's what I'm asking for right now, if I could get some help, Your Honor.

(Sent. Tr., p.21, Ls.14-23.)

Due to Mr. Chaput's substance abuse issues, counsel recommended that the court retain jurisdiction "and allow Mr. Chaput to participate in substance abuse treatment that's newly available since his one and only stint on retained jurisdiction. That's a treatment he's not been afforded, and therefore I'm asking this Court not to close the book on these matters, not to shut the door, if you will, on Mr. Chaput, but rather, afford him this opportunity." (Sent. Tr., p.18, Ls.10-20.) If the court was not inclined to retain jurisdiction, counsel requested that the court impose a sentence of ten years, with two years fixed, for the new grand theft charge and to reduce the sentence in the aggravated assault case from ten years fixed to ten years, with two years fixed. Considering that Mr. Chaput's criminal behavior stemmed directly with his substance abuse addiction, and that he acknowledged his issues and wanted treatment, Mr. Chaput submits that the district court abused its discretion by failing to retain jurisdiction, or, alternatively, by imposing excessive sentences.

CONCLUSION

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

DATED this 30th day of July, 2019.

/s/ Justin M. Curtis
JUSTIN M. CURTIS
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th 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/ Evan A. Smith
EVAN A. SMITH
Administrative Assistant

JMC/eas