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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 46752-2019
Plaintiff-Respondent,)	
)	ADA COUNTY NO. CR01-18-20562
v.)	
)	
STEFANEY M. BELLEMORE,)	APPELLANT'S BRIEF
AKA TUCKER, AKA LYSKA,)	
AKA HARBERT, AKA MARGERI,)	
)	
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Stefaney Bellemore pled guilty to possession of methamphetamine and admitted that she was a persistent violator. The district court sentenced her to a unified term of 20 years, with five years fixed. Ms. Bellemore asserts the district court abused its discretion by imposing an excessive sentence.

Statement of the Facts & Course of Proceedings

After receiving a report from a Veteran's Administration employee, Boise police officers launched an investigation into whether [REDACTED] Ms. Bellemore was taking advantage of and/or abusing a [REDACTED] veteran suffering from dementia. (PSI, pp.3-5.)¹ As a result, the State charged Ms. Bellemore with two counts of exploitation of a vulnerable adult, and alleged infliction of great bodily injury as an enhancement. (R., p.170.) When officers arrested Ms. Bellemore, they discovered methamphetamine and drug paraphernalia in her possession. (PSI, p.5.)

After a preliminary hearing, the State filed an Information charging Ms. Bellemore with possession of methamphetamine and possession of drug paraphernalia. (R., pp.19-22, 31-32.) The State also filed an Information Part II, alleging that Ms. Bellemore is eligible for the persistent violator sentencing enhancement. (R., pp.36-40.) Pursuant to an agreement with the State, Ms. Bellemore pleaded guilty to possession of methamphetamine and admitted to being a persistent violator; in exchange, the State dismissed the remaining charges but would be free to argue the evidence surrounding the exploitation of a vulnerable adult charges, and the parties were each free to argue for what they believed would be an appropriate sentence. (R., pp.185-94; Tr. p.19, Ls.13-17.)

During the sentencing hearing, the State asked the district court to impose a life sentence, with five years fixed (Tr., p.41, L.23 – p.42, L.2), while Ms. Bellemore's counsel asked the court to retain jurisdiction (Tr., p.46, Ls.22-25). The district court sentenced Ms. Bellemore to a

¹ Citations to the Presentence Investigation Report and its attached documents will use the designation "PSI," and will include the page number associated with the 1,995-page electronic file containing those documents.

unified term of 20 years, with five years fixed. (R., pp.199-202; Tr., p.65, L.19 – p.66, L.3.)

Ms. Bellemore filed a timely Notice of Appeal. (R., pp.203-05.)²

ISSUE

Did the district court abuse its discretion by imposing an excessive sentence upon Ms. Bellemore, in light of the mitigating factors that exist in her case?

ARGUMENT

The District Court Abused Its Discretion By Imposing An Excessive Sentence Upon Ms. Bellemore, In Light Of The Mitigating Factors That Exist In Her Case

Ms. Bellemore asserts that, given any view of the facts, her unified sentence of 20 years, with five years fixed, is 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. 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.

Ms. Bellemore has long struggled with addiction. At the [REDACTED] her mother introduced her to “all sorts of drugs” and a year later, she was “sent off” with a man who abused drugs and got her pregnant. (PSI, pp.18, 24.) Ms. Bellemore struggled with addiction for much of her adult life, and that addiction led to a multitude of legal issues. (PSI, p.31.) Methamphetamine is her drug of choice and she has suffered from mental health symptoms due

² A review of documents available through iCourt reveals that Ms. Bellemore filed a Rule 35 motion seeking leniency, but she did not present any new or additional information, and the district court denied the motion. In light of the applicable standards of review, Ms. Bellemore does not raise the denial of her Rule 35 motion as an issue in this appeal.

to her drug use. (PSI, pp.31, 34.) Ms. Bellemore recognizes that her history of substance abuse has had a negative impact on her mental health and she acknowledged that getting treatment for her addictions is a “primary area of need at this time.” (PSI, p.32.)

Idaho courts recognize that a drug addiction and the willingness to seek treatment are mitigating factors that should lead a district court to impose a less severe sentence. *See State v. Nice*, 103 Idaho 89 (1982). In light of the mitigating factors that exist in this case, Ms. Bellemore asserts that her unified sentence of twenty years, with 5 years fixed, entered upon her guilty plea to simple possession of methamphetamine enhanced by her persistent violator status, is excessive.

CONCLUSION

Ms. Bellemore respectfully requests that this Court reduce her sentence as it deems appropriate.

DATED this 3rd day of September, 2019.

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of September, 2019, 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

JCP/eas