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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 46772-2019
Plaintiff-Respondent,)	
)	BONNER COUNTY NO. CR-2017-4918
v.)	
)	
JACOB CORBAN COLEMAN,)	APPELLANT'S BRIEF
)	
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

When he was [REDACTED] Jacob Corban Coleman pleaded guilty, under a binding plea agreement, to first degree murder. The district court imposed a unified sentence of life imprisonment, with forty years fixed. On appeal, Mr. Coleman asserts the district court abused its discretion when it imposed the fixed term of his sentence.

Statement of the Facts & Course of Proceedings

Mr. Coleman was born with an oversized tongue and enlarged tonsils and adenoids, and he snored and frequently choked as an infant. (*See Conf. Exs., p.24.*)¹ Before he finished grade school, Mr. Coleman underwent three ear tube insertions, as well as surgery to remove his tonsils and adenoids. (*See Conf. Exs., p.24.*) However, his snoring persisted, and he also developed night terrors and has never slept well. (*See Conf. Exs., p.24.*)

Both of Mr. Coleman's parents grew up in homes where domestic violence took place, and during Mr. Coleman's childhood, his father was physically abusive to his mother. (*See Conf. Exs., pp.25-27, 31.*) By the time he reached fourth grade, Mr. Coleman and his family had moved eight times. (*Conf. Exs., p.25.*) During Mr. Coleman's early childhood, his father was abusing alcohol and methamphetamine. (*See Conf. Exs., pp.25-26.*) Mr. Coleman had reported speech articulation defects and motor delays in the first grade, and his developmental problems became worse in the second grade. (*See Conf. Exs., pp.26-28.*) After Mr. Coleman's father was arrested and extradited to Alabama on an old warrant, Mr. Coleman and the rest of his family were evicted from their apartment. (*See Conf. Exs., p.29.*) Mr. Coleman's mother told Mr. Coleman and his siblings that their father had gone on vacation. (*See Conf. Exs., p.29.*)

Mr. Coleman had gone through an individualized educational plan from the first to the fifth grades, but after those services were terminated, he shortly thereafter began to have serious attendance problems at school. (*See Conf. Exs., pp.28-30.*) When he entered junior high, he started acting out within two months. (*See Conf. Exs., p.30.*) He began cheating, and also accrued a large number of excused absences. (*See Conf. Exs., p.31.*) In the summer between

¹ All citations to "Conf. Exs." refer to the 391-page PDF version of the Confidential Exhibits, including the Defendant's Sentencing Memorandum and its Appendix.

ninth and tenth grade, Mr. Coleman jumped off a roof “for fun.” (Conf. Exs., p.31.) His behavior in social contexts was characterized as odd. (*See* Conf. Exs., p.32.)

In high school, Mr. Coleman tried to fit in more, joining the football team as a sophomore. (*See* Conf. Exs., pp.32-33.) But while the team accepted him, Mr. Coleman was too slight to be effective and was seldom chosen to run plays. (*See* Conf. Exs., p.33.) Mr. Coleman also enrolled in debate class, but failed the class both semesters. (Conf. Exs., p.33.) His sophomore GPA was 1.7. (Conf. Exs., p.34.) Around this time, Mr. Coleman witnessed a girl get hit by a truck at an intersection. (*See* Conf. Exs., p.33.)

By the time of Mr. Coleman’s junior year, his father had relapsed, was using methamphetamine and heroin, and was also unemployed. (*See* Conf. Exs., p.34.) The family was on public assistance, and Mr. Coleman’s mother was struggling with whether to stay married. (*See* Conf. Exs., p.34.) Mr. Coleman’s mother had to work all the time to make ends meet, and Mr. Coleman was unprepared for the additional responsibilities that came with her depending on him to fill his father’s shoes. (*See* Conf. Exs., pp.34-35.) During this period, Mr. Coleman made statements about bombs, and his school treated his words as a bomb threat and expelled him. (*See* Conf. Exs., p.35.) The police did not find any evidence that Mr. Coleman had researched, planned, or worked on a bomb, and the expulsion was later changed to a suspension. (Conf. Exs., p.35.)

Later in his junior year, Mr. Coleman wrote a suicide note, and he was again suspended when the student who received the note reported it. (*See* Conf. Exs., p.36.) Mr. Coleman then asked to meet with a counselor, but he only met with a counseling intern for three months. (*See* Conf. Exs., p.36.) Midway through that period of counseling, Mr. Coleman reportedly jumped off a moving bus and injured his arms, because he wanted to see what it felt like. (*See* Conf.

Exs., pp.36-37.) The counseling intern referred Mr. Coleman for a psychological evaluation, but after the evaluation, Mr. Coleman's mother never followed through with the recommendations for therapy. (*See Conf. Exs., p.37.*) The school administration directed Mr. Coleman to finish high school online. (*Conf. Exs., p.37.*) Mr. Coleman was able to graduate and walk with his class, but his final cumulative GPA at Puyallup High School in Puyallup, Washington, was 1.5. (*Conf. Exs., pp.37, 115-16.*)

Following his graduation, Mr. Coleman enrolled in courses at the local community college, but did not complete a single credit. (*See Conf. Exs., p.38.*) He also took steps to enroll in an online paralegal college, but did not follow through with that either. (*See Conf. Exs., p.38.*) Meanwhile, he composed another suicide note and stored it in his email drafts. (*See Conf. Exs., p.38.*) Mr. Coleman's father was still an active drug addict, and the family conducted an unsuccessful intervention around Christmas. (*See Conf. Exs., p.38.*) Mr. Coleman was a virtual recluse, staying inside with one of his brothers all day. (*See Conf. Exs., p.38.*) By the next spring, Mr. Coleman's father was in a methadone program, and Mr. Coleman spoke with his parents about college. (*See Conf. Exs., p.39.*) Mr. Coleman started working part-time at two jobs, and when a mutual friend from work texted him about his father stealing from her and asking for methamphetamine, Mr. Coleman realized his father had relapsed. (*See Conf. Exs., p.39.*) Later, in the summer, Mr. Coleman had a panic attack while riding the bus to work with his father. (*See Conf. Exs., p.39.*)

Mr. Coleman's parents thought of Mr. Coleman as a genius, even though his IQ is "above average" and his cumulative high school GPA was 1.5. (*See Conf. Exs., p.41.*) Mr. Coleman's family also claimed that he was the captain of his high school football team, when he was not. (*See Conf. Exs., p.33.*) Additionally, his family believed he was captain of the debate team,

when no such position existed. (*See Conf. Exs.*, p.33.) After the “bomb threat,” Mr. Coleman’s mother believed that Mr. Coleman was especially upset over being removed as president of the honor society, even though Mr. Coleman had never been admitted to the honor society and was actually ineligible to join. (*See Conf. Exs.*, p.35-36.)

Mr. Coleman bought a one-way plane ticket to Spokane. (*See Conf. Exs.*, p.40.) The day before the scheduled flight, Mr. Coleman told his uncle he had been accepted at Gonzaga University. (*See Conf. Exs.*, p.43.) He had also told that to his sister, and asked her to take him to the airport. (*See Conf. Exs.*, p.43.) His sister threw a going-away party for him. (*See Conf. Exs.*, pp.43-44.) When Mr. Coleman’s mother learned at the last minute, she asked him if he had applied for admission and completed his application for financial assistance. (*See Conf. Exs.*, p.43.) Mr. Coleman reported he had done so and also had scholarships, but none of that was true. (*See Conf. Exs.*, p.43.) Mr. Coleman then flew from Seattle to Spokane, and took public transportation to Gonzaga. (*See Conf. Exs.*, pp.43-44.) That morning, Mr. Coleman submitted a financial aid application. (*See Conf. Exs.*, p.44.) He went to the housing office at Gonzaga, gave them a false name, and represented himself as if he were enrolled, but the university did not have any housing for him. (*See Conf. Exs.*, p.44.)

Mr. Coleman went back to the airport, contacted a short-term labor recruiter and two military recruiters, and eventually decided to travel to Hope, Idaho. (*See Conf. Exs.*, p.45.) At this point, Mr. Coleman was despondent and contemplating suicide. (*See Conf. Exs.*, p.45.) That afternoon, Mr. Coleman hired a taxi driver, Gagandeep Singh. (*See Conf. Exs.*, p.46.) He gave Mr. Singh a fake address for an imaginary friend who lived in Hope. (*Conf. Exs.*, p.46.)

Over two hours later, Mr. Coleman had Mr. Singh stop at a Walmart in Sandpoint. (*See Conf. Exs.*, p.46.) In the Walmart, Mr. Coleman bought a knife. (*Conf. Exs.*, p.46.) They later

inadvertently drove past Hope, and Mr. Singh stopped at the Clark Fork boat check station to ask an officer for directions. (*See Conf. Exs., p.46.*) The officer advised them to double back to Hope and have Mr. Coleman's friend collect him at a gas station. (*Conf. Exs., p.46.*) Mr. Coleman's statements made after his arrest indicated that, at this time, he was seriously thinking about suicide, or losing himself in the deep woods of Idaho. (*See Conf. Exs., p.46.*)

Mr. Singh and Mr. Coleman subsequently pulled into a gas station in Hope, and Mr. Coleman stayed inside the taxi minivan for about five minutes. (*See Conf. Exs., p.46.*) Mr. Singh was tired of driving Mr. Coleman around North Idaho, and intended to drive him back to the airport. (*See Conf. Exs., p.46.*) About fifteen minutes later, Mr. Singh parked next to a gas station in Kootenai, because Mr. Coleman had confessed to him that he wanted to commit suicide and Mr. Singh wanted to warn Mr. Coleman's family. (*See Conf. Exs., p.46.*) Mr. Singh asked for Mr. Coleman's phone, and Mr. Coleman opened it and gave a false number for his mother. (*See Conf. Exs., pp.46-47.*) When Mr. Coleman realized that Mr. Singh was searching the phone for the correct number, he snapped and stabbed Mr. Singh multiple times, inflicting mortal wounds. (*See Conf. Exs., pp.46-47.*)

Over an hour later, Mr. Singh's brother, co-owner of their taxi company, called the authorities to request a welfare check on Mr. Singh. (*See R., p.345.*) Mr. Singh's brother soon afterwards reported that he had just received a text from Mr. Singh, asking him to call the cops. (*See R., p.345.*) A Bonner County Sheriff's Deputy responded to the location of Mr. Singh's taxi. (*See R., p.345.*) The deputy found Mr. Singh's body on the floor of the taxi, and Mr. Coleman inside the taxi holding a cell phone and a knife. (*See R., p.346.*) The deputy ordered Mr. Coleman out of the taxi and handcuffed him. (*See R., p.346.*) After being

Mirandized, Mr. Coleman told the deputy he would tell him everything, if the deputy promised to keep his family name out of it. (*See R.*, p.346.)

The State charged Mr. Coleman by Information with murder in the first degree, I.C. §§ 18-4001, 18-4002, 18-4003, and 18-4004, with a use of a deadly weapon sentencing enhancement under I.C. § 19-2520. (*R.*, pp.78-79.) Mr. Coleman entered a not guilty plea. (*R.*, p.80.) The State later filed a Notice of Intent to Seek Death Penalty. (*R.*, pp.108-09.)

Pursuant to a binding plea agreement, Mr. Coleman later agreed to plead guilty to first degree murder. (*R.*, pp.334-36.) The State agreed to, provisionally, file a motion to withdraw the death notice. (*R.*, p.335.) The parties “agreed that the Court, after providing both parties adequate opportunity to present mitigating and aggravating evidence at a sentencing hearing to be held at a later date, shall impose a determinate prison sentence of not less than 20 nor more than 40 years.” (*R.*, p.336.) The parties recognized that the district court was required “to impose an indeterminate sentence of life imprisonment.” (*R.*, p.336.) The district court accepted Mr. Coleman’s guilty plea. (*Tr.* 11/09/18, p.15, Ls.17-25.) The State withdrew its death notice. (*See Tr.* 11/09/18, p.15, Ls.20-22.)

At the sentencing hearing, Mr. Coleman recommended the district court impose a unified sentence of life imprisonment, with twenty years fixed. (*Tr.* 01/03/19, p.97, L.8 – p.98, L.11.) Defense counsel asked for twenty years because, even though Mr. Coleman would spend half his life behind bars before possibly becoming parole-eligible, it would still give him a light at the end of the tunnel. (*See Tr.* 01/03/19, p.97, Ls.5-14.) In his comments to the district court, Mr. Coleman stated, “I think 30 years is the most appropriate time given that—because I can—

40 years won't do me anything.”² (Tr. 01/03/19, p.100, Ls.14-16.) The State recommended the district court impose a unified sentence of life imprisonment, with forty years fixed. (Tr. 01/03/19, p.79, Ls.14-21.) The district court imposed a unified sentence of life imprisonment, with forty years fixed. (R., pp.371-73.) Upon the State's motion, the district court dismissed the use of a deadly weapon sentencing enhancement. (See R., pp.376-77.)

Mr. Coleman filed a Notice of Appeal timely from the district court's Judgment of Conviction. (R., pp.378-80; see R., pp.385-89 (Amended Notice of Appeal).)

ISSUE

Did the district court abuse its discretion when it imposed a fixed term of forty years, as part of a unified sentence of life imprisonment, upon Mr. Coleman following his plea of guilty to first degree murder?

ARGUMENT

The District Court Abused Its Discretion When It Imposed A Fixed Term Of Forty Years, As Part Of A Unified Sentence Of Life Imprisonment, Upon Mr. Coleman Following His Plea Of Guilty To First Degree Murder

Mr. Coleman asserts the district court abused its discretion in when it imposed a fixed term of forty years, as part of a unified sentence of life imprisonment, upon him following his plea of guilty to first degree murder. The district court should have instead followed the recommendation of Mr. Coleman's counsel by imposing a unified sentence of life imprisonment, with twenty years fixed. (See Tr. 01/03/19, p.97, L.8 – p.98, L.11.) Alternatively, the district court should have followed Mr. Coleman's own comments by imposing a fixed term of thirty years. (See Tr. 01/03/19, p.100, Ls.14-15.)

² At the conclusion of his comments, Mr. Coleman asked: “I can't really—I will never be able to make up for what I did. But does that mean that I have to give up on everything?” (Tr. 01/03/19, p.101, Ls.1-3.) He stated, “Then 40 years, let's do this.” (Tr. 01/03/19, p.101, L.4.)

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 “due regard to the nature of the offense, the character of the offender, and the protection of the public interest.” *State v. Strand*, 137 Idaho 457, 460 (2002).

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) (internal quotation marks omitted). Mr. Coleman does not assert that his sentence exceeds the statutory maximum. Accordingly, in order to show an abuse of discretion, Mr. Coleman must show that in light of the governing criteria, the sentence was excessive considering any view of the facts. *Id.* 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.* An appellate court, “[w]hen reviewing the length of a sentence . . . consider[s] the defendant’s entire sentence.” *State v. Oliver*, 144 Idaho 722, 726 (2007). The reviewing court will “presume that the fixed portion of the sentence will be the defendant’s probable term of confinement.” *Id.*

Mr. Coleman asserts the fixed term of his sentence imposed by the district court is excessive considering any view of the facts, because the district court did not adequately consider mitigating factors. Specifically, the district court did not adequately consider Mr. Coleman’s difficult childhood. As suggested in the Statement of the Facts & Course of Proceedings above, Mr. Coleman’s upbringing was impacted by family instability, social isolation, and other serious problems. Mr. Coleman’s grandmother on his mother’s side was the victim of physical abuse by her husband, Mr. Coleman’s grandfather. (*See Conf. Exs.*, p.21.)

Mr. Coleman's grandparents on his father's side also participated in domestic violence. (Conf. Exs., pp.21-22.) Mr. Coleman's father beat Mr. Coleman's mother when she was pregnant with Mr. Coleman. (See Conf. Exs., p.23.) When Mr. Coleman was about five years old, his father incurred a domestic violence charge for choking Mr. Coleman's mother. (See Conf. Exs., p.26.) Around the time Mr. Coleman was in first grade, other members of the family found Mr. Coleman's mother sitting in the bathtub with a bloody nose, and Mr. Coleman's father stated she had hit herself. (See Conf. Exs., p.27.) When Mr. Coleman was in junior high, his father allegedly broke his mother's finger, but the incident was not reported. (See Conf. Exs., p.31.)

Beyond the periodic domestic violence, Mr. Coleman's family was unstable in other ways. His family moved eight times by the time he reached fourth grade. (Conf. Exs., p.25.) At times, a total of twelve people from Mr. Coleman's extended family were living in Mr. Coleman's residences, such as an 1,800 square foot mobile home with one bathroom. (See Conf. Exs., pp.26-27.) Mr. Coleman's father was abusing methamphetamine and alcohol in Mr. Coleman's early childhood, and later moved to methamphetamine and heroin when Mr. Coleman was in high school. (See Conf. Exs., pp.26, 34.) When Mr. Coleman's father was in jail in Alabama, his mother took up a job at a daycare, but the family was evicted from their apartment. (See Conf. Exs., p.29.) The Coleman children reported that for the next month, they lived in tents, a car, motels, and their uncle's business. (See Conf. Exs., p.29.) During and after Mr. Coleman's time in high school, his father relapsed into drug addiction several times, and Mr. Coleman was hard-pressed to take on additional responsibilities to support their household. (See Conf. Exs., pp.34-35, 37.)

Mr. Coleman underwent procedures at an early age to insert ear tubes and to remove his tonsils and adenoids, but his problems with snoring and sleep in general persisted. (See Conf.

Exs., p.24.) In preschool, his teachers noticed that Mr. Coleman seemed to be chronically tired, and he had speech problems and motor delays. (*See Conf. Exs., p.26.*) His records from first grade noted that he had hand tremors, speech difficulties, excessive drooling, and an inability to walk down the hall without balancing himself by touching a wall. (*See Conf. Exs., pp.27-28.*) While the school put him on an individualized educational plan, by the second grade his motor and speech needs had become more pronounced, and there was an increase in tremors, drooling, and slurring. (*See Conf. Exs., p.28.*) Later in the second grade, his teachers noted that he was having difficulty communicating his thinking processes, he was nervous and fearful, and he cried in the classroom. (*See Conf. Exs., p.28.*) Additionally, Mr. Coleman avoided other children, played by himself, and was chosen last. (*Conf. Exs., p.28.*)

Mr. Coleman had documented behavior problems in the fifth grade, after changing schools for the eighth time. (*See Conf. Exs., p.30.*) At the end of the fifth grade, the school district terminated his individualized educational program services. (*Conf. Exs., p.30.*) Mr. Coleman accumulated sixteen excused absences in the sixth grade. (*Conf. Exs., p.30.*) He had over a dozen excused absences each year in the seventh, eighth, and ninth grades. (*See Conf. Exs., p.31.*) He had three reported incidents of cheating and being insubordinate in one school year. (*See Conf. Exs., p.32.*) At the time the sentencing memorandum was prepared, Mr. Coleman attributed his depression and acting out in school as a delayed reaction to the death of his beloved grandmother. (*See Conf. Exs., pp.31-32.*)

Mr. Coleman's social isolation was often coupled with behavior others would describe as odd. For example, Mr. Coleman joined a Christian after-school group in junior high, "but, although he attended some of the events and gathering, he sat against the wall or wandered around on the outskirts of the room." (*See Conf. Exs., p.32.*) Mr. Coleman "had a detached

aura, gazing off for significant periods of time and then returning his focus to stare at persons or objects as if nothing was there.” (Conf. Exs., p.32.) The leader of the group described an incident where Mr. Coleman left a field trip without telling anyone, and when an adult found him, Mr. Coleman aimed a pepper spray container at the adult, but without spraying it. (*See* Conf. Exs., p.32.) Mr. Coleman went with a girl to his ninth grade dance, but the girl reported she felt uncomfortable in his presence. (*See* Conf. Exs., p.32.) That was apparently the only time Mr. Coleman ever dated. (*See* Conf. Exs., p.32.)

Later, in the summer between ninth and tenth grade, Mr. Coleman jumped off a roof “for fun.” (*See* Conf. Exs., p.32.) “After the incident he went to the neighbor’s and showed him what he had done.” (Conf. Exs., p.32.) Similarly, while undergoing counseling in high school, Mr. Coleman reportedly “jumped off a moving bus to see what it felt like, sustaining a forearm fracture.” (*See* Conf. Exs., p.36.) “When asked, he told the neighbor and eventually his counselor that he ‘wanted to see what it felt like—I feel no pain.’” (Conf. Exs., p.37.)

Perhaps no incident better illustrates the intersection between Mr. Coleman’s social isolation and “odd” behavior than the “bomb threat” from his junior year. “There are conflicting reports about what Jacob actually said and did but the school treated his words as a security threat.” (Conf. Exs., p.35.) While Mr. Coleman “certainly made mention of bombs and how destructive they can be . . . the police did not locate any evidence indicating that he had researched, planned or worked on a bomb.” (Conf. Exs., p.35.) Although the school later converted his expulsion to a suspension, “the damage to what remained of his academic progress and socialization was simply beyond repair.” (*See* Conf. Exs., p.35.) Moreover, Mr. Coleman “minimized the incident by saying he was kidding and re-framing the story to make himself the hero who was taking the fall for some other students.” (Conf. Exs., p.35.) He claimed that he

and some other students were merely talking about bombs, and he stepped up to take the punishment when another student took them out of context. (Conf. Exs., p.35.) Mr. Coleman's position was not supported by the incident reports, but his father stated Mr. Coleman was a "hero" for taking the hit for others without flinching. (*See* Conf. Exs., p.35.)

As documented above, Mr. Coleman's family also took other unsupported views of Mr. Coleman's accomplishments. The Defendant's Sentencing Memorandum stated that Mr. Coleman's parents "exhibit a strong tendency to see themselves as good parents . . . and to facilitate this desire the[y] are constantly creating an alternative reality in which their children's problems and misdeeds are trivialized or recast as 'misunderstandings' while their smallest achievements are gilded well beyond anything approaching reality." (Conf. Exs., p.41.) Thus, Mr. Coleman's family thought he was a genius despite his above-average IQ, and believed he had leadership positions on the football team and other school groups that he did not have. (*See* Conf. Exs., pp.33-34, 41-42.) Mr. Coleman and his family even mischaracterized his single date at the ninth grade dance as an ongoing romantic relationship. (*See* Conf. Exs., p.32.) Mr. Coleman "was a participant in this destructive myth making. . . . All his life Jacob has been forced and yet content to be the person in the myths rather than the person he really is." (Conf. Exs., p.48.) As the sentencing memorandum put it, "Rather than confronting Jacob's obvious developmental issues and helping him deal with them, his parents concocted a narrative in which he was a genius, a hero and so far advanced intellectually that his problems were nothing more than the failure of others to recognize and accommodate his brilliance." (Conf. Exs., p.42.)

The other institutions in Mr. Coleman's childhood also largely failed to help him. For example, his individualized educational plan services were terminated after the fifth grade, with no apparent reasons found in the record. (*See* Conf. Exs., p.30.) In junior high, school

administrators did not pursue remedial measures to deal with Mr. Coleman's acting out. (*See* Conf. Exs., pp.30-31.) Mr. Coleman's high school let him continue to sign up for Advanced Placement classes, despite his low GPA. (*See* Conf. Exs., p.34.) In the words of the Defendant's Sentencing Memorandum, "Apparently, rather than taking appropriate actions to provide Jacob with the services he clearly required, the school administration was content to simply let him get by." (Conf. Exs., p.34.)

While the school district finally initiated an academic intervention after Mr. Coleman's "bomb threat," the school did not address the other risk factors in Mr. Coleman's life. (*See* Conf. Exs., p.35.) The school failed to recognize Mr. Coleman's inner struggles, failed to see the signs of his toxic home environment, and failed to require him to meet with a guidance counselor or refer him for social services. (*See* Conf. Exs., p.35.) Nor did the police follow through at this juncture. (*See* Conf. Exs., p.35.) Likewise, after Mr. Coleman's suspension prompted by his suicide note, no professionals intervened. (*See* Conf. Exs., p.36.)

Alongside Mr. Coleman's experiences during his difficult childhood, the district court also did not adequately consider Mr. Coleman's mental health issues. Phillip A. Hanger, Ph.D., in his psychological evaluation of Mr. Coleman, diagnosed him with persistent depressive disorder (dysthymia) and schizoid personality disorder. (Def. Ex. B, 01/17/18, p.9.)³ Per Dr. Hanger, the impression offered from the results of Mr. Coleman's earlier competency evaluation "characterized Mr. Coleman as distant and aloof, particularly in response to his current life stressors, with a pattern of traits suggestive of a maladaptive personality style characterized by social indifference and flattened affective responsiveness" (*See* Def. Ex. B., p.4.) In that competency evaluation, Dr. Hanger wrote that "**Mr. Coleman suffers from a**

³ Defendant's Exhibit B, Dr. Hanger's psychological evaluation report, is a sealed exhibit that appears as part of the 31-page PDF version of the additional confidential exhibits.

pervasive, maladaptive personality style, but does not exhibit a significant pattern or history suggestive of a serious mental illness,” and found he was competent to continue with the legal process. (See Def. Ex. A, 09/18/17, p.10 (emphasis in original).)⁴

In the psychological evaluation, Dr. Hanger stated that Mr. Coleman was considered at an elevated risk for self-harm, and his “maladaptive personality style limits his ability to adapt and cope with life stressors, which confound his pervasive, **mild depression**.” (Def. Ex. B., p.8 (emphasis in original).) Mr. Coleman’s “pattern of depressed mood has apparently persisted for several years, but has not reached the severity of a major depressive disorder—in part, due to Mr. Coleman’s pattern of masking his emotional expression.” (Def. Ex. B., p.8.)

Dr. Hanger also wrote: “Mr. Coleman’s personality style may be characterized by a detachment from social relationships, consistent with a **Schizoid Personality Disorder**. He displays a restricted range of emotional expression, particularly during interpersonal contact.” (Def. Ex. B, p.8 (emphasis in original).) However, “This pattern of maladaptive personality does not reflect a disorder in cognitive processing or reality testing, such as may be seen with a psychotic disorder.” (Def. Ex. B, p.8 (emphasis in original).)

At the sentencing hearing, Dr. Hanger testified that Mr. Coleman’s personality disorder was pervasive “in the sense that this is a condition that will be seen persistently throughout his life, like starting in early adolescence from my review of his history and across various settings.” (Tr. 01/03/19, p.49, Ls.17-23.) Mr. Coleman’s personality disorder was maladaptive “in the sense that it impairs, it limits his effectiveness, the functioning effectiveness, and primarily social function.” (Tr. 01/03/19, p.49, L.24 – p.50, L.1.) Dr. Hanger explained the personality aspect of the disorder meant it was “a pattern underlying his decision-making. It’s a pattern of his life

⁴ Defendant’s Exhibit A, Dr. Hanger’s competency evaluation report, is also a sealed exhibit in the 31-page PDF.

choices, not just a mood. But it can influence a person's mood, not just their behavior, but it can direct their behavior." (Tr. 01/03/19, p.50, Ls.2-6.)

Additionally, Dr. Hanger testified that Mr. Coleman's behavior in not completing the application to Gonzaga University, having only initiated the financial aid application, was consistent with his maladaptive personality disorder "in the sense that that's a further pattern of his ineffectiveness, his inability to benefit from feedback from others to recognize either the need for assistance or when it might be helpful either from the university, from counselors, from family members." (Tr. 01/03/19, p.56, Ls.2-19.) Dr. Hanger saw a pattern "pervading his life that he is ineffective in doing these kinds of socially-engaging tasks; applying for a job, applying for a school." (Tr. 01/03/19, p.56, Ls.20-23.)

Dr. Hanger also testified that he had found Mr. Coleman to be asocial, not antisocial. (See Tr. 01/03/19, p.62, L.22 – p.63, L.8.) He did not find the existence of psychopathy in his examinations of Mr. Coleman. (See Tr. 01/03/19, p.64, L.25 – p.65, L.4.) Dr. Hanger explained that Mr. Coleman's persistent depressive disorder and schizoid personality disorder were treatable. (Tr. 01/03/19, p.65, Ls.5-11.) The depressive disorder was treatable "with both traditional therapy as well as potentially medication management to assist the individual in overcoming the symptoms." (Tr. 01/03/19, p.66, Ls.3-6.) The schizoid personality disorder would be more challenging to treat, requiring "a great deal more of effortful treatment, counseling, group counseling specifically for schizoid personality to assess—or assist the individual in acclimating, identifying those social norms, getting that feedback." (Tr. 01/03/19, p.66, Ls.11-18.) Dr. Hanger concluded that Mr. Coleman's acquiring "that ability to use society to help him problem solve will benefit him greatly." (See Tr. 01/03/19, p.67, Ls.5-7.)

Further, the district court did not adequately consider Mr. Coleman’s youth, especially in view of the lengthy fixed sentence he was facing in any event under the binding plea agreement. Mr. Coleman was only [REDACTED] when he committed the instant offense, and [REDACTED] when he pleaded guilty. (*See R.*, pp.78, 334-36.) During the sentencing hearing, Mr. Coleman’s counsel asserted that the fixed sentence of twenty years he requested “would mean that if imposed, and if Jacob qualified for parole—and that is by no means a given in this case—when he walked out of that penitentiary with the supervision by the parole commission, he would have spent fully half of his life behind bars.” (Tr. 01/03/19, p.97, Ls.8-14.) Conversely, the forty-year fixed sentence recommended by the State would mean that, at a minimum, Mr. Coleman “will have spent two-thirds of his entire life . . . behind prison walls” before his parole. (*See Tr.* 01/03/19, p.97, Ls.15-19.)

As defense counsel asserted at the sentencing hearing, “But what I think is most important here for Jacob is that there be a glimmer of hope that he can in fact rewire himself, that he can become the person that his parents hoped he would be, that he can become eventually the person that he wanted to be, that he can return to society with something to contribute.” (Tr. 01/03/19, p.96, Ls.13-22.) Mr. Coleman’s counsel asserted that the problem with long prison sentences “is that a prison sentence can be too long. That by the time a person leaves the penitentiary he or she is so completely changed, so completely without hope, so completely without any social tool kit whatever that they will be a walking zombie.” (Tr. 01/03/19, p.96, L.23 – p.97, L.4.) Defense counsel asked the district court that, “in effect you leave a candle burning, however faintly, in the window; that you give Jacob the opportunity to in some small way atone for what he has done. That you do not slam the prison gates so hard and for so long a period of time that he just gives up all hope.” (Tr. 01/03/19, p.97, Ls.20-25.)

Because the district court did not adequately consider the above mitigating factors, the fixed term of the sentence imposed by the district court is excessive considering any view of the facts. Thus, the district court abused its discretion when it imposed the fixed term of Mr. Coleman's sentence.

CONCLUSION

For the above reasons, Mr. Coleman respectfully requests that this Court reduce the fixed term of his sentence as it deems appropriate.

DATED this 28th day of October, 2019.

/s/ Ben P. McGreevy
BEN P. MCGREEVY
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of October, 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

BPM/eas