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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	No. 46795-2019
Plaintiff-Respondent,)	
)	Canyon County Case No.
v.)	CR14-2018-7264
)	
FELIPE N. LOPEZ GUADARRAMA,)	
)	RESPONDENT'S BRIEF
Defendant-Appellant.)	
_____)	

Issue

Has Guadarrama failed to establish that the district court abused its discretion by imposing a unified sentence of 15 years, with 12 years fixed, upon his guilty plea to aggravated battery?

Guadarrama Has Failed To Establish That The District Court Abused Its Sentencing Discretion

Guadarrama shot and seriously injured two men in the parking lot of a night club. (PSI, pp.3-4.¹) The state charged Guadarrama with two counts of aggravated battery, with enhancements for using a deadly weapon in the commission of the crimes. (R., pp.33-38.²) Pursuant to a plea agreement, Guadarrama pled guilty to one count of aggravated battery, and the state dismissed the remaining charge and the enhancements. (R., pp.53-54.) The district court accepted Guadarrama's plea and imposed a unified sentence of 15 years, with 12 years fixed. (R., pp.66-67.) Guadarrama filed a notice of appeal timely from the judgment of conviction. (R., pp.68-71.)

Guadarrama asserts his sentence is excessive in light of his age, lack of prior felony convictions, employment, and "the facts surrounding the entire altercation." (Appellant's brief, pp.2-4.) The record supports the sentence imposed.

When evaluating whether a sentence is excessive, the court considers the entire length of the sentence under an abuse of discretion standard. State v. McIntosh, 160 Idaho 1, 8, 368 P.3d 621, 628 (2016); State v. Stevens, 146 Idaho 139, 148, 191 P.3d 217, 226 (2008). It is presumed 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 687, 391 (2007). Where a sentence is within statutory limits, the appellant bears the burden of demonstrating that it is a clear abuse of discretion. McIntosh, 160 Idaho at 8, 368 P.3d at 628 (citations omitted). To carry this burden the appellant must show the sentence is excessive under any reasonable view of the facts. Id. A sentence is

¹ PSI page numbers correspond with the page numbers of the electronic file "Confidential Exhibits Appeal 3-27-2019 11.39.50 22743712 E6D28B07-B87A-4D5D-93FE-87A72090B2D3.pdf."

² Record page numbers correspond with the page numbers of the electronic file "Clerk's Record Appeal 3-27-2019 11.39.50 22744524 21BEDE4C-3C4F-48E5-A69B-D2E0D16BBDC2.pdf."

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. Id. The district court has the discretion to weigh those objectives and give them differing weights when deciding upon the sentence. Id. at 9, 368 P.3d at 629; State v. Moore, 131 Idaho 814, 825, 965 P.2d 174, 185 (1998) (court did not abuse its discretion in concluding that the objectives of punishment, deterrence and protection of society outweighed the need for rehabilitation). “In deference to the trial judge, this Court will not substitute its view of a reasonable sentence where reasonable minds might differ.” McIntosh, 160 Idaho at 8, 368 P.3d at 628 (quoting Stevens, 146 Idaho at 148-49, 191 P.3d at 226-27). Furthermore, “[a] sentence fixed within the limits prescribed by the statute will ordinarily not be considered an abuse of discretion by the trial court.” Id. (quoting State v. Nice, 103 Idaho 89, 90, 645 P.2d 323, 324 (1982)).

The maximum prison sentence for aggravated battery is 15 years. I.C. § 18-908. The district court imposed a unified sentence of 15 years, with 12 years fixed, which falls within the statutory guidelines. (R., pp.66-67.) Furthermore, Guadarrama’s sentence is appropriate in light of the seriousness of the offense, the great harm done to the victims, his high risk to reoffend, his failure to accept responsibility, and his attempts to blame the victims.

In this case, officers responded to a report of an intentional shooting at the Blue Eye Night Club. (PSI, p.3.) When officers arrived they found one of the victims, Juan Reyes, laying on the ground with a gunshot wound to his abdomen. (PSI, p.3.) Another victim, Rodolfo Reyes, had gunshot wounds to his abdomen and to his wrist. (PSI, p.3.) En route to the hospital, Rodolfo told a responding officer that he and Juan were “near the taco truck eating tacos when a guy,” later identified as Guadarrama, “came up and approached” them. (PSI, p.3.) Rodolfo

“told [Guadarrama] they did not want any trouble,” but Guadarrama “opened fire hitting him and Juan.” (PSI, p.3.) Guadarrama then fled the scene in his vehicle. (PSI, p.3.)

Rodolfo’s girlfriend, Vanessa Morales, reported that she, Angie Reyes, Juan Reyes, and Rodolfo Reyes had been dancing at the club and decided to leave, and that she and Angie stayed in the car while Juan and Rodolfo went to get tacos from a taco truck in the parking lot. (PSI, p.3.) Vanessa reported that a man she did not know, again later identified as Guadarrama, was parked next to them and tried to talk to her. (PSI, p.3.) Vanessa reported that when she told Guadarrama she was not interested, he lifted his shirt and showed her “what appeared to be a gun.” (PSI, p.3.) Vanessa “wanted to leave and told Rodolfo and Juan to come back to the car,” at which point Guadarrama backed out of his parking spot. (PSI, p.3.) Vanessa saw Rodolfo and Juan approach Guadarrama and talk to him. (PSI, p.3.) Although she was not sure what was said, “the conversation appeared to be calm.” (PSI, p.3.) While Rodolfo and Juan were talking to Guadarrama, Vanessa “unexpectedly heard gun shots,” after which “Rodolfo ran from the car, Juan fell to the ground,” and Guadarrama drove away. (PSI, p.3.)

A witness named Connie Hernandez reported that she saw Guadarrama talking to Vanessa, show his gun, and then back his car out of the parking spot. (PSI, p.3.) Connie reported that she observed Juan and Rodolfo speak with Guadarrama, that it did not look like they were arguing, and that she “even saw the men shake hands.” (PSI, p.3.) However, after the men shook hands, Connie saw Guadarrama reach into his car and then she heard gun shots. (PSI, p.3.) Connie provided officers with a copy of a video she took that showed Guadarrama “calmly getting into” his vehicle. (PSI, p.3.)

Guadarrama was at large for almost a month before he surrendered himself to officers who had surrounded his ex-wife’s home where he was holed up for several days. (PSI, p.4.)

When given the opportunity to give his version of the offense, Guadarrama “admitted to being under the influence of alcohol at the time he shot” Rodolfo and Juan, but he claimed the victims initiated the confrontation and that his “gun was there” and “discharged twice.” (PSI, p.5.) Guadarrama did not accept responsibility for his actions, nor did he express remorse for or acknowledge the fact that his actions had severe consequences for the victims in this case: Juan required “several surgeries to repair his liver, gallbladder, right side colon, duodenum, inferior vena cava and his spinal column.” (PSI, p.4.) Juan was released from the hospital a month after the shooting, and will be paralyzed for the rest of his life. (PSI, p.4; Tr., p.3 Ls.11-16.) Rodolfo suffered a right radius fracture and a gunshot to the epigastrium. (PSI, p.4.)

While his conviction in this case is Guadarrama’s first felony conviction, his criminal history includes seven misdemeanor convictions, including for reckless driving, failure to stop for damage accident/leave scene, battery, and two counts of DUI. (PSI, pp.5-7.) Guadarrama’s record also includes multiple charges that were ultimately dismissed, including the aggravated battery charge and deadly weapon enhancements that were dismissed as part of the plea agreement in this case. (R., p.53; PSI, pp.5-8.) Additionally, Guadarrama’s criminal record shows “at least four cases where he absconded sentencing or at other times during the adjudication or post conviction process and the case was dismissed due to inactivity.” (PSI, p.8.) Although Guadarrama told the presentence investigator that “he has never had any problems while on probation,” his record shows he has actually “violated probation on numerous cases.” (PSI, p.8.)

At sentencing, and despite having pled guilty to aggravated battery, Guadarrama again failed to accept any responsibility and blamed the victims for his actions, ultimately concluding, “It’s hard to accept. I have family too. I lost everything already. And I’ve lost everything. My

family, for their—because of their fault.” (Tr., p.10, L.12 – p.13, L.4.) Following Guadarrama’s remarks, the district court articulated the correct legal standards applicable to its decision and also set forth its reasons for imposing Guadarrama’s sentence, including Guadarrama’s failure to accept responsibility and his attempts to blame the victims. (Tr., p.13, L.6 – p.14, L.13.) The state submits that Guadarrama has failed to establish an abuse of discretion, for reasons more fully set forth in the attached excerpt of the sentencing hearing transcript, which the state adopts as its argument on appeal. (Appendix A.)

Conclusion

The state respectfully requests this Court to affirm Guadarrama’s conviction and sentence.

DATED this 27th day of June, 2019.

/s/ Lori A. Fleming
LORI A. FLEMING
Deputy Attorney General

ALICIA HYMAS
Paralegal

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 27th day of June, 2019, served a true and correct copy of the attached RESPONDENT'S BRIEF to the attorney listed below by means of iCourt File and Serve:

BENSON BARRERA
BARRERA LAW OFFICE
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/s/ Lori A. Fleming
LORI A. FLEMING
Deputy Attorney General

APPENDIX A

State v. Felipe N. Lopez Guadarrama, Case No. CR14-18-07264, Docket No. 46795-2019

1 Because if somebody comes after me, I'm going to fight back.
2 It's hard to accept. I have family too. I lost
3 everything already. And I've lost everything. My family, for
4 their -- because of their fault.
5 That's all I have to say.
6 THE COURT: Okay. All right. I have considered all the
7 factors of criminal sentencing in this case, including
8 protection of society, deterrence of crime, rehabilitation for
9 the defendant as well as punishment, along with the factors set
10 out in Idaho Code section 19-2521 about whether probation or
11 imprisonment is appropriate.
12 I'll note a few things. First of all, I recognize
13 that it's a first felony conviction for the defendant.
14 However, he does have a good deal of misdemeanor history, some
15 of which is rather concerning, including a battery from a
16 couple of years ago, a couple of DUI charges, as well as a
17 couple of convictions for leaving the scene of an accident.
18 What's most troubling to me, though, is the
19 defendant's actions on this night. He shot two people in a
20 parking lot here in Caldwell, seriously injured them. We all
21 heard one of the victim's statements about how this has
22 impacted his life, and I'm certainly taking that into
23 consideration.
24 It appears there was a verbal altercation of some
25 sort, perhaps some name calling as well. That in no way

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1 of restitution requested. How would the parties like to handle
2 that? Would you like me to set a date for a hearing on
3 restitution, or what would you like to do?
4 MR. KNOX: Judge, I guess ultimately I would defer to
5 Mr. Barrera. If the court is going to set a hearing or just
6 reserve it, I would ask for an extended period of time so that
7 we can make sure we have everything gathered up.
8 THE COURT: Mr. Barrera?
9 MR. BARRERA: Yeah, I'd prefer to have a specific date
10 so that -- to make sure. I mean, these are large numbers that
11 are in the PSI that are recommended. So I want to be able to
12 -- like he said as far as time -- to go pick through them and
13 make sure I've covered everything.
14 THE COURT: All right. So we'll set a restitution
15 hearing in about four months.
16 All right. So May 6 at 8:30 for restitution
17 hearing.
18 MR. BARRERA: 8:30, Your Honor?
19 THE COURT: 8:30.
20 All right. Sir, you do have the right to appeal my
21 sentence in this case. You must do so within 42 days of
22 judgment being entered. You may be represented by an attorney
23 in that appeal. If you cannot afford an attorney for that
24 appeal, one will be provided for you at public expense if you
25 are a needy person.

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1 justifies pulling a gun and shooting two people. I cannot undo
2 the harm caused to the victims, but I will give a sentence that
3 is fair and just in this case.
4 One thing that's also concerning to me are some of
5 the defendant's statements today here in court, which I find to
6 be rather appalling. Rather than taking full responsibility
7 for his actions, he's attempting to blame the victims, in some
8 way saying that a verbal altercation justifies his use of a
9 firearm to shoot them, which is completely inappropriate.
10 Considering all those factors that I did mention,
11 I'm going to sentence the defendant to a sentence of 15 years,
12 which is the maximum sentence. It's going to be 12 years fixed
13 plus 3 years indeterminate. And I will impose that sentence.
14 I will issue a no-contact order prohibiting the
15 defendant from having any contact with the victims in this
16 case.
17 The defendant will be required to provide a DNA
18 sample and a right thumbprint impression to the State. Failure
19 to do so is a felony offense.
20 I'm going to impose a fine of \$15,000.
21 I will dismiss Count I as well as the information
22 Part II.
23 The defendant will be required to pay court costs
24 in this case.
25 I understand that there is going to be a good deal

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1 I'm providing you a document entitled "Notice to
2 Defendant Upon Sentencing." This sets out your post-judgment
3 rights in this case. I ask that you review that with
4 Mr. Barrera, sign it, and return it to me.
5 (Mr. Barrera and the defendant conferred.)
6 THE COURT: I'm also going to enter a no-contact order
7 prohibiting the defendant from having any contact with the two
8 victims in this case. That will extend for a full 15 years.
9 I'll have that no-contact order served on the defendant at this
10 time.
11 (Mr. Barrera and the defendant conferred.)
12 THE COURT: All right. That no-contact order has been
13 served on the defendant.
14 I will remand the defendant to the custody of the
15 Canyon County Sheriff's Office to be turned over to the Idaho
16 Department of Correction.
17 We will be in recess. Thank you.
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19 (The proceedings concluded at 11:30 a.m.)
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