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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,)	NO. 46881-2019
)	
v.)	KOOTENAI COUNTY NO. CR-2009-9562
)	
JUAN CARLOS ALDANA VILLANUEVA,)	
)	APPELLANT'S BRIEF
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Juan Carlos Aldana Villanueva appeals from the district court's order denying his motion to correct an illegal sentence. Mindful of the relevant authority, Mr. Villanueva asserts the district court erred when it denied his motion.

Statement of the Facts and Course of Proceedings

In 2010, Mr. Villanueva pled guilty to one count of second degree murder, and the district court subsequently imposed a sentence of 28 years, with 20 years fixed. (R., p.19.) In February of 2018, Mr. Villanueva filed an Idaho Criminal Rule 35(a) motion ("Rule 35 motion")

to correct an illegal sentence. (R., pp.19-23.) In the motion, he argued his sentence was illegal because his trial counsel failed to tell him that he did not have to speak with the presentence investigator. (R., p.20.) He also asserted that his right to due process was violated because mitigating evidence was not presented to the district court prior to sentencing. (R., pp.20-22.) He also filed several related documents, including a motion for a confidential neuropsychological evaluation, a motion for the appointment of counsel, and a motion for a hearing. (R., pp.24-52.) Thereafter, the district court appointed counsel to assist Mr. Villanueva. (R., p.53.)

Counsel subsequently filed a memorandum in support of the Rule 35 motion. (R., pp.59-62.) He argued that Mr. Villanueva was entitled to neurological testing and a reconsideration of his sentence because when Mr. Villanueva committed the crime he was very young, his brain was not fully developed, new advances in MRI technology could show the way his brain had changed, and such technology should be used in reevaluating his sentence. (R., pp.59-62.) The State then filed a brief in opposition to the Rule 35 motion in which it argued that a defendant's insufficient brain development is "irrelevant in demonstrating that a facially illegal sentence was imposed." (R., pp.64-67.) After a hearing, the district court denied Mr. Villanueva's Rule 35 motion. (Tr., p.11, Ls.4-6; R., p.71.) It stated that, in order for the court to grant a motion alleging an illegal sentence, the defendant would have to prove that his sentence was "illegal from the face of the record." (Tr., p.10, Ls.18-22.) It found that the arguments presented "appear[ed] to be something collateral" to the issue of whether the sentence was illegal, and Mr. Villanueva's sentence was within the statutory maximum. (Tr., p.10, L.23 – p.11, L.4.) Thereafter, Mr. Villanueva filed a notice of appeal timely from the district court's order denying the Rule 35 motion. (R., pp.73-75.)

ISSUE

Did the district court err when it denied Mr. Villanueva's Idaho Criminal Rule 35 motion to correct an illegal sentence?

ARGUMENT

The District Court Erred When It Denied Mr. Villanueva's Idaho Criminal Rule 35 Motion To Correct An Illegal Sentence

Under Idaho Criminal Rule 35, a district court “may correct a sentence that is illegal from the face of the record at any time.” I.C.R. 35(a). “Generally, whether a sentence is illegal or whether it was imposed in an illegal manner is a question of law over which” appellate courts exercise free review. *State v. Farwell*, 144 Idaho 732, 735 (2007). The Idaho Supreme Court has held, “the term ‘illegal sentence’ under Rule 35 is narrowly interpreted as a sentence that is illegal from the face of the record, i.e., does not involve significant questions of fact or require an evidentiary hearing.” *State v. Clements*, 148 Idaho 82, 86 (2009). More recently, the Idaho Supreme Court clarified that “Rule 35’s purpose is to allow courts to correct illegal sentences, *not* to reexamine errors occurring at trial or before the imposition of the sentence.” *State v. Wolfe*, 158 Idaho 55, 65 (2015) (emphasis in original).

Mindful of *Clements* and *Wolfe*, Mr. Villanueva asserts the district court erred when it denied his Rule 35(a) motion because his trial counsel failed to tell him he did not have to speak with the presentence investigator. Additionally, Mr. Villanueva asserts his right to due process was violated because exculpatory evidence was not presented to the district court prior to his sentencing and, given the advances in MRI technology, he is entitled to a neuropsychological examination, and a new sentencing hearing at which the results of such testing could be presented to show his brain has dramatically changed since he committed the offense in this case. Therefore, the district court erred when it denied his motion to correct an illegal sentence.

CONCLUSION

Mr. Villanueva respectfully requests that this Court vacate the district court's order denying his motion to correct an illegal sentence and remand his case for further proceedings.

DATED this 21st day of August, 2019.

/s/ Reed P. Anderson
REED P. ANDERSON
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of August, 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

RPA/eas