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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 46947-2019
Plaintiff-Respondent,)	
)	ADA COUNTY NO. CR01-19-931
v.)	
)	
SEAN MICHAEL BEGIN,)	APPELLANT’S BRIEF
)	
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

After Sean M. Begin pled guilty to eluding an officer, the district court sentenced him to five years, with two years fixed. Mr. Begin appeals, and he argues the district court abused its discretion by imposing an excessive sentence.

Statement of Facts and Course of Proceedings

The State filed a criminal complaint alleging Mr. Begin committed the crimes of eluding a police officer and resisting an officer. (R., pp.6–7.) According to the Presentence Investigation Report (“PSI”),¹ police officers initiated a traffic stop of a car driven by Mr. Begin, and he sped

¹ Citations to the PSI refer to the 455-page electronic document with the confidential exhibits.

off. (PSI, pp.155–56.) By the time the officers caught up to the car, Mr. Begin had fled the scene. (PSI, p.156.) The officers eventually found him. (PSI, p.195.) Mr. Begin waived a preliminary hearing, and the magistrate bound him over to district court. (R., pp.13, 14–15.) The State filed an Information charging him with these two offenses. (R., pp.17–18.) Pursuant to a plea agreement, Mr. Begin pled guilty to eluding an officer. (R., pp.19, 27–28; Tr., p.5, L.14–p.6, L.6, p.12, L.13–p.14, L.9.) The State agreed to recommend a sentence of five years, with two years fixed. (Tr., p.5, Ls.15–17.)

At sentencing, the State recommended a sentence consistent with the plea agreement. (Tr., p.16, Ls.18–20.) Mr. Begin requested the district court retain jurisdiction so he could participate in the advanced practice rider or, in the alternative, sentence him to five years, with one year fixed. (Tr., p.21, Ls.23–25.) The district court agreed with the State’s recommendation and sentenced Mr. Begin to five years, with two years fixed. (Tr., p.25, Ls.9–13.)

Mr. Begin timely appealed from the district court’s judgment of conviction. (R., pp.31–33, 35–36.)

ISSUE

Did the district court abuse its discretion when it sentenced Mr. Begin to five years, with two years fixed, for eluding an officer?

ARGUMENT

The District Court Abused Its Discretion When It Sentenced Mr. Begin To Five Years, With Two Years Fixed, For Eluding An Officer

“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. Begin’s sentence does not exceed the statutory maximum. *See* I.C. §§ 18-112, 49-1404(2). Accordingly, to show that the sentence imposed was unreasonable, Mr. Begin “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 district court’s decision to retain jurisdiction is also reviewed for an abuse of discretion. *State v. Jones*, 141 Idaho 673, 677 (Ct. App. 2005). “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.” *Id.* at 676. “[P]robation is the ultimate objective of a defendant who is on retained jurisdiction.” *Id.* at 677. “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.*

Here, Mr. Begin asserts the district court abused its discretion by imposing an excessive sentence under any reasonable view of the facts. Specifically, he contends the district court

should have sentenced him to a lesser term of imprisonment or retained jurisdiction in light of the mitigating factors, including his mental health issues, acceptance of responsibility and remorse, and amenability to treatment.

Mr. Begin has significant mental health issues. Idaho Code § 19-2523 requires the sentencing court to consider the defendant's mental health condition if it is a significant factor, and the record must show that the sentencing court adequately considered this factor when imposing a sentence. I.C. § 19-2523; *State v. Delling*, 152 Idaho 122, 132–33 (2011). In this case, Mr. Begin has been diagnosed with bipolar disorder, ADD/ADHD, and depression. (PSI, pp.159, 291–96.) He has had mental health issues since he was a young child. (PSI, pp.292–96.) His mother explained that she had a binder full of Mr. Begin's mental health records. (PSI, p.293.) Mr. Begin described his mental health as "terrible" and that it "destroy[s] my thinking ability." (PSI, p.159.) Mr. Begin's mental health condition is a mitigating factor in favor of a more lenient sentence or the advanced practice rider.

In addition, Mr. Begin expressed remorse, accepted responsibility for the crime, and was amenable to treatment. Acceptance of responsibility, remorse, and regret are all factors in favor of mitigation. *State v. Shideler*, 103 Idaho 593, 595 (1982). In the PSI, he recognized, "I made my choice and still ran so in the end I still chose the wrong path." (PSI, p.156.) He felt "terrible I could have put others at risk." (PSI, p.156) At twenty-one years old, Mr. Begin also explained that he had been in prison for most of his adult life, so he never learned how to be an adult, such as paying bills and keeping a job. (PSI, p.159.) He was so stressed at times that he thought that he wanted to go back to prison. (PSI, p.159.) However, Mr. Begin recently got engaged and was motivated to change his life. (PSI, p.159.) His fiancé did not have a criminal record. (PSI, p.159.)

Mr. Begin made similar comments on his amenability to treatment and motivation to lead to productive life at sentencing:

I've been in and out of the system my entire life. I have no idea how to live on the streets on the outside, or at least very little experience. And I need help rather than – or some form of reeducation or programming.

It is so bad that I'm – in the face of authority, I have a flat response. I'm so scared of authority, of going back, I've become overwhelmed with fear. I guess this is why I ran. And it is also why I can't seem to keep out of trouble, to find stability. I'm a mess and I need help.

There is one change, though, that has helped me see and recognized this is in myself. I have people who I care for deeply on the outside, and I see a real chance at future, at stability. I see now that I need help.

No matter what you give me today, all I ask is, is I ask for help. I need something to help show me the direction I need to go to escape repeating this behavior. I want to be a better person to learn skills required to return to society.

(Tr., p.22, L.7–p.23, L.4.) Mr. Begin wanted to stop spending time “with other people who are bad influences.” (PSI, p.159.) His goals were to get a college degree and obtain employment. (PSI, p.159.) These statements of acceptance and remorse and amenability to treatment stand in favor of mitigation.

In summary, Mr. Begin argues the district court did not exercise reason and thus abused its discretion by imposing an excessive sentence. Proper consideration of the mitigating factors, such as Mr. Begin's mental health, regret, remorse, acceptance of responsibility, and his renewed focus on treatment, supports a lesser sentence or a period of retained jurisdiction.

CONCLUSION

Mr. Begin respectfully requests this Court reduce his sentence as it deems appropriate. Alternatively, he respectfully requests this Court vacate the district court's judgment of conviction and remand his case for a new sentencing hearing.

DATED this 1st day of August, 2019.

/s/ Jenny C. Swinford
JENNY C. SWINFORD
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of August, 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
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/s/ Evan A. Smith
EVAN A. SMITH
Administrative Assistant

JCS/eas