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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 46738-2019
Plaintiff-Respondent,)	
)	Bonner County Case No.
v.)	CR-2017-6741
)	
MATTHEW FRANK ARNETT,)	
)	RESPONDENT'S BRIEF
Defendant-Appellant.)	
_____)	

Issue

Has Arnett failed to establish that the district court abused its discretion by relinquishing jurisdiction?

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

Arnett escaped from community custody in the State of Washington and moved in with his girlfriend, Lacey, in Bonner County, Idaho, where he failed to register as a sex offender. (R., pp.25-26.) Approximately six months later, Arnett “just snapped and started yelling at [Lacey],” “threw her on the ground and began punching her in the face,” and “put his hand around her

wind pipe and began squeezing,” making it “very difficult” for her to breathe. (R., pp.25-26.) Lacey was able to “break free” and called 911. (R., p.26.) Officers responded and noted that Lacey “looked like she had just been beat up. There was swelling over one eye brow, both eyes were swollen and red and there was bruising on her face and neck.” (R., p.25.) Lacey told officers that Arnett “beats her” and chokes her “all the time.” (R., p.26.) Arnett told officers he “wasn’t saying anything as [the officers] would be arresting him for his warrants anyway.” (R., p.25.)

The state charged Arnett with failure to register as a sex offender, with a persistent violator enhancement. (R., pp.55-57.) Pursuant to a binding Rule 11 plea agreement, Arnett pled guilty to failure to register as a sex offender, the state agreed to dismiss the persistent violator enhancement, and the parties stipulated to a unified sentence of four years, with two years fixed, with a period of retained jurisdiction. (R., pp.70, 82-83.) Consistent with the plea agreement, the district court imposed the agreed-upon sentence and retained jurisdiction. (R., pp.85-88.) Following the period of retained jurisdiction, the district court relinquished jurisdiction. (R., pp.102-05.) Arnett filed a notice of appeal timely from the district court’s order relinquishing jurisdiction. (R., pp.111-13.)

Arnett asserts that the district court abused its discretion by relinquishing jurisdiction in light of “his limited successes during his period of retained jurisdiction, his recognition of a problem, and his desire to make the changes necessary so that this type of incident does not happen again.” (Appellant’s brief, pp.3-5.) Arnett has failed to establish an abuse of discretion.

“Probation is a matter left to the sound discretion of the court.” I.C. § 19-2601(4). The decision to place a defendant on probation or whether, instead, to relinquish jurisdiction over the defendant is a matter within the sound discretion of the district court and will not be overturned

on appeal absent an abuse of that discretion. State v. Hansen, 154 Idaho 882, 889, 303 P.3d 241, 248 (Ct. App. 2013) (citing State v. Hood, 102 Idaho 711, 712, 639 P.2d 9, 10 (1981); State v. Lee, 117 Idaho 203, 205–06, 786 P.2d 594, 596–97 (Ct. App. 1990)). A court's decision to relinquish jurisdiction will not be deemed an abuse of discretion if the trial court has sufficient information to determine that a suspended sentence and probation would be inappropriate under I.C. § 19-2521. State v. Brunet, 155 Idaho 724, 729, 316 P.3d 640, 645 (2013); Hansen, 154 Idaho at 889, 303 P.3d at 248 (citing State v. Statton, 136 Idaho 135, 137, 30 P.3d 290, 292 (2001)).

Contrary to his claim on appeal, Arnett's behavior during his rider did not show that he was a viable candidate for probation. Arnett incurred multiple disciplinary actions throughout his period of retained jurisdiction, the most serious of which were two Class B DOR's – one for harassment and the second for forgery, demonstrating his continued criminal thinking and behavior. (PSI, pp.7-8.¹) Rider staff reported that Arnett “has struggled throughout his program with bullying and harassment type behaviors towards other[s]” and he “appears to have established a pattern of turning to defiant verbal aggression and physical intimidation when not getting his way.” (PSI, pp.8, 14.) At one point, “a sergeant felt it necessary to specifically document giving Mr. Arnett a Direct Order to ‘not be aggressive toward staff.’” (PSI, p.8.) Staff concluded that Arnett showed an ability to “stop short of physical violence *when others get involved and the threat of authority is ever-present*, but every incident appears to have been stopped or potentially limited by staff presence,” and, “[b]ased on his threats and past criminal

¹ PSI page numbers correspond with the page numbers of the electronic file “Appeal Vol 1 – Confidential Documents.pdf.”

history, it seems questionable whether he would stop short of actual, aggressive physical contact without such intervention.” (PSI, p.8 (emphasis added).)

Program staff noted that Arnett proved to be “very program savvy,” and his Aggression Replacement Training (ART) facilitator reported that she was hesitant to state that Arnett successfully completed the ART group, as he often appeared to be “tailor[ing] his comments to what he believed she wanted to hear, even when it contrasted strongly with previous emphatic moral stances.” (PSI, p.8.) The facilitator stated, “He will need to attend many more classes of moral reasoning if there is any hope for him to change and raise his moral compass. His thinking is very engrained and unless he can be more open minded, I don’t see him making the necessary changes to be truly successful on probation.” (PSI, pp.8-9, 21.) Arnett’s case manager advised that Arnett “still has significant trouble recognizing and regulating his emotions,” he “may be deliberately attempting to manipulate and outwit authority figures to avoid negative consequences and optimize his image in their minds,” he “appears to have a significant compulsion for control of anything affecting his life – including authority figures and those he has contact with,” and, “Arnett has the necessary competency to use the skills from his programs in a group situation, but he appears to lack a willingness to implement them as ways of changing himself, instead deferring to employ them as methods to further his span of personal control.” (PSI, pp.9-10.)

Arnett failed to complete all of his assigned programming and he also failed to complete the assignments given him as part of his Behavior Contract. (PSI, pp.6, 9.) Rider staff recommended that the district court relinquish jurisdiction, concluding that Arnett “has some disturbing level of problems still at play” and he “has made little to no progress in improving those behaviors,” and:

... [N]umerous incident reports and documentations indicate he frequently finds himself in aggravated social situations or verbal altercations, in which he does little or nothing to calm the situation and tends toward escalating the levels of agitation. ... Also, it appears that his work, comments, demeanor, and general actions may proceed from a belief that he can get through the program without truly making any changes to his behavior by just supplying what he believes we want to see — or he truly, incorrectly believes he is making those changes. ... It seems highly doubtful that Mr. Arnett would gain lasting success if granted probation at this time. He would likely struggle with a supervising officer exerting control over his life. He will likely continue to face significant challenges in relationships and social interactions that pose potential conflicts to him without resorting to aggression. He has not performed sufficiently well in the program to address his personal areas of risk although provided specific coaching and opportunities to do so. Mr. Arnett needs more time to realize and work on his struggles than what the confines of the “Rider” program can provide him.

(PSI, pp.11-12.)

At the rider review hearing, the district court stated that, “from the Court’s perspective, the big concern is aggression, violence, those kinds of things” (1/2/19 Tr., p.11, L.25 – p.12, L.2), and, “My biggest concern was the comments about the staff, being aggressive toward the staff. You didn’t successfully complete the program. ... So I am not willing to place you on probation. You have a significant record, and I am going to impose the sentence” (1/2/19 Tr., p.12, Ls.14-19). The district court’s decision to relinquish jurisdiction was appropriate in light of Arnett’s ongoing criminal and aggressive behavior, his failure to demonstrate adequate rehabilitative progress while on his rider, and the risk he presents to the community. Given any reasonable view of the facts, Arnett has failed to establish an abuse of discretion.

Conclusion

The state respectfully requests this Court to affirm the district court's order relinquishing jurisdiction.

DATED this 20th day of November, 2019.

/s/ Kenneth K. Jorgensen
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 20th day of November, 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:

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