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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NOS. 46867-2019 & 46868-2019
Plaintiff-Respondent,)	
)	ADA COUNTY NOS. CR01-17-6168
v.)	& CR01-18-52965
)	
CHANCE MWENEMATALE LEONARD,)	APPELLANT'S
)	REPLY BRIEF
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Pursuant to a plea agreement, Chance Mwenematale Leonard pleaded guilty to felony operating a motor vehicle while under the influence of alcohol. The district court imposed a unified sentence of ten years, with two years fixed, and retained jurisdiction. Later, the district court placed Mr. Leonard on probation for a period of ten years. Mr. Leonard subsequently admitted to violating his probation, and the district court revoked his probation and executed his sentence.

In a second, separate case, Mr. Leonard pleaded guilty to felony operating a motor vehicle while under the influence of alcohol and/or drugs (one felony conviction within fifteen

years). This new crime was one of the admitted probation violations in the first case. The district court imposed a unified sentence of ten years, with three years fixed, to run concurrently with the sentence in the first case.

In his consolidated appeal, Mr. Leonard asserts the district court abused its discretion in the first case when it revoked his probation and executed his sentence. He also asserts the district court abused its discretion in the second case when it imposed his sentence.

The State, in its Respondent's Brief, argues that Mr. Leonard did not show that the district court abused its discretion in either case. (*See* Resp. Br., pp.5-12.) This Reply Brief is necessary to address two of the State's contentions, which are unsupported.

Statement of the Facts and Course of Proceedings

The statement of the facts and course of proceedings were previously articulated in Mr. Leonard's Appellant's Brief. They need not be repeated in this Reply Brief, but are incorporated herein by reference thereto.

ISSUES

- I. Did the district court abuse its discretion in the 2017 case when it revoked Mr. Leonard's probation and executed his underlying sentence?
- II. Did the district court abuse its discretion in the 2018 case when it imposed a unified sentence of ten years, with three years fixed, upon Mr. Leonard following his plea of guilty to operating a motor vehicle while under the influence of alcohol and/or drugs (one felony conviction within fifteen years)?

ARGUMENT

I.

The District Court Abused Its Discretion In The 2017 Case When It Revoked Mr. Leonard's Probation And Executed His Underlying Sentence

Mr. Leonard asserts the district court abused its discretion in the 2017 case when it revoked his probation and executed his underlying sentence. The district court should have instead followed Mr. Leonard's recommendation by placing him on probation, or in the alternative, by retaining jurisdiction so he could participate in the alternative practices programs. (*See* 03/04/19 Tr., p.12, Ls.11-17.)

The State contends, as a preliminary matter, that Mr. Leonard's "argument that the district court abused its discretion is conclusory and thus fatally deficient to his appeal." (Resp. Br., p.5.) The State argues that Mr. Leonard "has failed to address any of the prongs of the abuse of discretion test or to identify any possible abuse of discretion in the body of his brief, and the district court should be affirmed on that basis." (Resp. Br., p.6.) However, "In criminal appeals involving only claims regarding the revocation of probation, the severity of the sentence, or a motion brought under Idaho Criminal Rule 35, the brief of the appellant and respondent need not contain a table of contents, table of cases and authorities, or citations to authorities." I.A.R. 35(i).

The State's argument on whether the district court abused its discretion in the 2017 case is otherwise not remarkable, and no further reply is necessary. Mr. Leonard would thus refer the Court to pages 5-8 of his Appellant's Brief.

II.

The District Court Abused Its Discretion In the 2018 Case When It Imposed A Unified Sentence Of Ten Years, With Three Years Fixed, Upon Mr. Leonard Following His Plea Of Guilty To Operating A Motor Vehicle While Under The Influence Of Alcohol And/Or Drugs (One Felony Conviction Within Fifteen Years)

Mr. Leonard asserts the district court abused its discretion in the 2018 case when it imposed a unified sentence of ten years, with three years fixed, upon him following his plea of guilty to operating a motor vehicle while under the influence of alcohol and/or drugs (one felony conviction within fifteen years). The district court should have instead followed Mr. Leonard's recommendation by imposing a unified sentence of ten years, with three years fixed, and either placing Mr. Leonard on probation, or in the alternative, retaining jurisdiction. (*See* 03/04/19 Tr., p.12, Ls.11-17.)

The State argues that Mr. Leonard's "appellate position is manifestly different from the position he took when he was before the district court for sentencing." (Resp. Br., p.12.) The State argues that, before the district court, Mr. Leonard's counsel "correctly conceded that 'the court would be well within its right to send him to prison for this type of conduct, particularly [in light of] what he is on supervision for.'" (Resp. Br., p.12 (quoting 03/04/19 Tr., p.12, Ls.7-10) (alteration in original).) But right after acknowledging the scope of the district court's discretion, defense counsel asked the district court to give Mr. Leonard "an opportunity for probation again and participate in the New Life program or in the alternative send him on another period of retained jurisdiction" (03/04/19 Tr., p.12, Ls.11-14.)

The State's argument on whether the district court abused its discretion in the 2018 case is otherwise not remarkable, and no further reply is necessary. Mr. Leonard would thus refer the Court to pages 8-10 of his Appellant's Brief.

CONCLUSION

For the above reasons, as well as the reasons contained in the Appellant's Brief, Mr. Leonard respectfully requests that this Court reduce his sentence as it deems appropriate.

DATED this 12th day of December, 2019.

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of December, 2019, I caused a true and correct copy of the foregoing APPELLANT'S REPLY BRIEF, to be served as follows:

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/s/ Evan A. Smith

EVAN A. SMITH
Administrative Assistant

BPM/eas