

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)
) No. 47043-2019
 Plaintiff-Respondent,)
) Ada County Case No.
 v.) CR01-18-41188
)
 DENNIS JARED PICKETT,)
)
 Defendant-Appellant.)
 _____)

BRIEF OF RESPONDENT

**APPEAL FROM THE DISTRICT COURT OF THE FOURTH JUDICIAL
DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE
COUNTY OF ADA**

HONORABLE JASON D. SCOTT
District Judge

LAWRENCE G. WASDEN
Attorney General
State of Idaho

COLLEEN D. ZAHN
Deputy Attorney General
Chief, Criminal Law Division

KENNETH K. JORGENSEN
Deputy Attorney General
Criminal Law Division
P. O. Box 83720
Boise, Idaho 83720-0010
(208) 334-4534
E-mail: ecf@ag.idaho.gov

**ATTORNEYS FOR
PLAINTIFF-RESPONDENT**

JUSTIN M. CURTIS
Deputy State Appellate Public Defender
322 E. Front St., Ste. 570
Boise, Idaho 83702
(208) 334-2712
E-mail: documents@sapd.state.id.us

**ATTORNEY FOR
DEFENDANT-APPELLANT**

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STATEMENT OF THE CASE

Nature Of The Case

Dennis Jared Pickett appeals from his judgment for possession of a controlled substance with intent to distribute. On appeal he challenges entry of the no-contact order he stipulated to as part of the plea agreement.

Statement Of The Facts And Course Of The Proceedings

A grand jury indicted Pickett for trafficking in heroin, possession of a controlled substance with intent to distribute, three counts of felony injury to a child, and a misdemeanor count of possession of paraphernalia. (R., pp. 30-32.) The indictment alleged the manner of committing the injury to child counts was by “repeatedly/frequently exposing” the child victims “to Heroin and Methamphetamine, which entered the [victims’] body/system.” (R., p. 31.)

The parties entered into a binding plea agreement by which Pickett pled guilty to possession of a controlled substance with intent to distribute and the state dismissed the other charges. (R., pp. 122-27; p. 5, L. 9 – p. 14, L. 8.) In the agreement Pickett stipulated to entry of a no-contact order “prohibiting any contact” with two of the victims of the dismissed injury to child counts and allowing contact with the third victim (his daughter) only “at the discretion of Health and Welfare,” “for the duration of the aggregate sentence.” (R., p. 123; Tr., p. 6, Ls. 5-10.)

The district court imposed the stipulated sentence. (R., pp. 128-30; Tr., p. 21, L. 13 – p. 22, L. 14.) It also entered the stipulated no-contact order. (Sealed, pp. 7-8; Tr., p. 22, Ls. 23-25.) Pickett filed a notice of appeal timely from the judgment. (R., pp. 137-38.)

ISSUE

Pickett states the issue on appeal as:

Did the district court abuse its discretion by entering the no contact order?

(Appellant's brief, p. 2.)

The state rephrases the issue as:

Has Pickett failed to show error because his argument is barred by the invited error doctrine?

ARGUMENT

Pickett Has Failed To Show Error Because His Argument Is Barred By The Invited Error Doctrine

The district court entered the no-contact order stipulated to by the parties. (R., p. 123; Tr., p. 6, Ls. 5-10; p. 22, Ls. 23-25; Sealed, pp. 7-8.) “Mindful” that he stipulated to entry of the no-contact order, Pickett argues the district court nevertheless abused its discretion. (Appellant’s brief, p. 3.) He contends that possession of a controlled substance with intent to distribute, the crime he pled guilty of, is not a crime enumerated in the no-contact order statute. (Id. (citing I.C. § 18-920).) Pickett’s claim is barred by the invited error doctrine and otherwise lacks merit.

“The doctrine of invited error applies to estop a party from asserting an error when his or her own conduct induces the commission of the error.” State v. Norton, 151 Idaho 176, 187, 254 P.3d 77, 88 (Ct. App. 2011) (citing State v. Atkinson, 124 Idaho 816, 819, 864 P.2d 654, 657 (Ct. App. 1993)). It seeks to prevent a party who “caused or played an important role in prompting a trial court” to make a particular decision from “later challenging that decision on appeal.” State v. Blake, 133 Idaho 237, 240, 985 P.2d 117, 120 (1999). “One may not complain of errors one has consented to or acquiesced in.” Norton, 151 Idaho at 187, 254 P.3d at 88 (citing State v. Caudill, 109 Idaho 222, 226, 706 P.2d 456, 460 (1985); State v. Lee, 131 Idaho 600, 605, 961 P.2d 1203, 1208 (Ct. App. 1998)). Because Pickett stipulated to entry of the no-contact order he played an important role in the entry of the order. He cannot on appeal claim that the action he invited the district court to take was erroneous.

Even if his claim were not barred by the invited error doctrine, Pickett would still have failed to show an abuse of discretion. A court may enter a no-contact order whenever

it finds the defendant has been convicted of a listed offense or “any other offense for which a court finds that a no contact order is appropriate.” I.C. § 18-920(1). Pickett’s argument that the court lacked discretion to enter a no contact order because his conviction was not for a listed offense fails as a matter of law. Moreover, Pickett has not claimed that the district court’s determination that the no-contact order is appropriate, based on the stipulation of the parties (and the close relation between the crime of conviction and the harm to the children), was error.

CONCLUSION

The state respectfully requests this Court to affirm the district court’s no-contact order.

DATED this 2nd day of March, 2020.

/s/ Kenneth K. Jorgensen
KENNETH K. JORGENSEN
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 2nd day of March, 2020, served a true and correct copy of the foregoing BRIEF OF RESPONDENT to the attorney listed below by means of iCourt File and Serve:

JUSTIN M. CURTIS
DEPUTY STATE APPELLATE PUBLIC DEFENDER
documents@sapd.state.id.us.

/s/ Kenneth K. Jorgensen
KENNETH K. JORGENSEN
Deputy Attorney General