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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 47080-2019
Plaintiff-Respondent,)	
)	GEM COUNTY NO. CR23-18-1096
v.)	
)	
SCOTT DAMION BOYNTON,)	APPELLANT'S BRIEF
)	
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Scott Damion Boynton appeals from his judgment of conviction for felony injury to a child. Mr. Boynton pleaded guilty and the district court imposed a sentence of ten years, with two years determinate. Mr. Boynton appeals, and he asserts that the district court abused its discretion by imposing an excessive sentence.

Statement of the Facts & Course of Proceedings

On June 25, 2018, officers from the Emmett Police Department began investigating an injury to a child case for a [REDACTED] child. (Presentence Investigation Report (*hereinafter*, PSI), p.2.) The child's aunt stated that she had noticed bruising on the child's face, and her sister, the child's mother, stated that he had fallen down the stairs while being watched by her boyfriend, Mr. Boynton. (PSI, p.3.) Two days later, the child's aunt noticed a bruise on his left side, and, while changing a diaper, "bruising on his buttohole." (PSI, p.3.)

Mr. Boynton acknowledged that he had hit the child but admitted not remembering the incident well because he was high at the time. (PSI, p.4.) Mr. Boynton had taken methamphetamine, cocaine, and Xanax. (PSI, p.5.) He admitted that he heard the child crying and had gotten mad at him and told him to go downstairs; when he wouldn't, Mr. Boynton "grabbed him by the arm and slapped his ass and stomach as I was leading him to the stairs . . ." (PSI, p.4.) When the child still would not go down the stairs, he slapped him again and then slapped on the back of the head "which caused him to lose balance and fall down a couple of the stairs." (PSI, pp.4-5.) Mr. Boynton flatly denied any sexual abuse of the child. (PSI, p.5.)

Mr. Boynton was charged with felony injury to a child. (R., p.24.) He pleaded guilty and the district court imposed a sentence of ten years, with two years determinate. (R., p.51.) Mr. Boynton appealed. (R., p.53.) He asserts that the district court abused its discretion by imposing an excessive sentence.

ISSUE

Did the district court abuse its discretion when it imposed a unified sentence of ten years, with two years determinate, upon Mr. Boynton following his plea of guilty to felony injury to a child?

ARGUMENT

The District Court Abused Its Discretion When It Imposed A Unified Sentence Of Ten Years, With Two Years Fixed, Upon Mr. Boynton Following His Plea Of Guilty To Felony Injury To A Child

“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. Boynton’s sentence does not exceed the statutory maximum. Accordingly, to show that the sentence imposed was unreasonable, Mr. Boynton “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).

When asked about the instant offense, Mr. Boynton stated, “I feel horrible and bout it and would anything [to] make it up to my victim.” (PSI, p.5.) Further, he addressed the district court at the sentencing hearing. He stated,

I’ve had a lot of time to think on this. I’ve spent almost nine months in Gem County. There’s been a lot of productive things that I’ve come across.

I realize this isn’t the life that I want for myself. And there’s a couple things that have come up. I realize I’ve not only hurt myself and the victim, but there’s a lot of other people that have been impacted in this situation.

I feel like therapy is definitely something that I’ve been looking forward to. I’ve been talking to [trial counsel] about it since day one. I’ve been up front about that, is therapy is something I definitely need to help me be successful in life.

Like, I’m still young. I know I don’t want to continue down this path. I want to do better for myself.

So I feel like the main thing I need to focus on now is my therapy and staying clean and doing what I need to do.

(Tr., p.21, Ls.7-23.) Counsel for Mr. Boynton also believe that treatment was a good option. He noted that at the time of sentencing, the case was already fairly old and that “I think dealing with [Mr. Boynton] sober is a much better thing for society than dealing with him with any kind of substance in him.” (Tr., p.17, Ls.17-22.) Mr. Boynton was “very pleasant, [had] a good attitude through this whole thing, even though he has spent quite a bit of time in custody.” (Tr., p.17, Ls.23-25.) Counsel believed that “given his young age, given his background, if we could keep [Mr. Boynton] sober and get him engaged in treatment that he actually completes, I think that is going to be the only way that he can move forward and be a productive member of society.” (Tr., p.20, Ls.7-11.) Mr. Boynton had previously participated in treatment while incarcerated in Colorado, but stated that he only met with the counsel seven times, and “I watched a movie and they gave me a certificate.” (PSI, p.16.) This time, Mr. Boynton wanted serious treatment that could help.

Further, while the psychosexual evaluator had determined that Mr. Boynton was a high risk to reoffend, counsel noted that one of the factors that the evaluator had weighed was that Mr. Boynton had not had a relationship that lasted longer than two years and that Mr. Boynton was only [REDACTED] and so such a factor should not be significant. (Tr., p.18, Ls.8-19.)

Counsel also noted that, while Mr. Boynton acknowledged that the current case was tragic, “it’s also tragic in how [Mr. Boynton] got here today.” (Tr., p.18, Ls.1-7.) When asked to describe his childhood, Mr. Boynton stated,

Honestly the few words I would use to describe it, would be messed up, not okay, painful and traumatic as far as I can remember. I’ve seen my mom beaten in front of me. I’ve seen Grown men hold guns pointed at my mother and me being a boy who wanted to help his mom every time always tried to interfere and it ended up with me being beaten, abused, hit with objects, burned with cigarettes, pretty much anything they could do to hurt me. Same thing happened with my youngest sister Athena and after a while we got tired of the abuse and tired of being around all the drugs that my mom and her exes were doing we finally got ahold of Athena’s dad who lived in Colorado and he assured us it wasn’t like that with him so we went to live with him only to find out it was even worse where we ended up getting molested by the roommate for about a year all three of us kids went through it til we went back to my mom’s because she was clean and in a healthy relationship in which case turned abusive when we showed up so I started doing drugs to cope and ran to Colorado where I and my mom ended up being homeless and [I] started hanging out with wrong people and continuously doing drugs and ended up in legal troubles and abandoning my family and being with gang members til I got arrested.

(PSI, p.9.) Mr. Boynton clearly suffered throughout his childhood. He stated that he had a prior diagnosis of PTSD, bipolar, ADHD and ADD. (PSI, p.14.)

Considering his tragic childhood, his acceptance of responsibility and expressions of remorse, and his desire to obtain substance abuse treatment, Mr. Boynton respectfully submits that the district court abused its discretion by imposing an excessive sentence in this case.

CONCLUSION

Mr. Boynton respectfully requests that this Court reduce his sentence as it deems appropriate. Alternatively, he requests that his case be remanded to the district court for a new sentencing hearing.

DATED this 11th day of December, 2019.

/s/ Justin M. Curtis
JUSTIN M. CURTIS
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of December, 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

JMC/eas