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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,)	NO. 47095-2019
)	
v.)	ADA COUNTY NO. CR01-18-52954
)	
RIAN KRISTOPHER HILL,)	
)	APPELLANT’S BRIEF
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Rian Kristopher Hill pled guilty to possession of a controlled substance pursuant to an agreement with the State, and the district court sentenced him to five years’ imprisonment, with six-months fixed, and denied his request for probation. On appeal, Mr. Hill argues his sentence is excessive under the circumstance, representing an abuse of the district court’s discretion.

Statement of the Facts and Course of Proceedings

Mr. Hill was sitting in his parked and inoperable Ford Explorer when officers arrived with a parole arrest warrant relating to a DUI case from 2010, CR-FE-2010-18749 (“2010 DUI

case”). (PSI, pp.3, 97; 3/18/19 Tr., p.19, L.11 – p.21, L.20.) About a month earlier, Mr. Hill was released from prison after serving nine years, and while he manage to purchase the vehicle for work, he did not yet have his driver’s license. (PSI p.3.) He had been allowing various acquaintances to use the car in exchange for them driving him to and from his job sites. (PSI p.3; 3/18/19 Tr., p.19, L.11 – p.21, L.20.) He had most recently leant the car to a young woman on felony parole who had totaled it. (PSI, p.3; 3/18/19 Tr., p.19, L.11 – p.21, L.20.) Mr. Hill had just had it towed to the residence where he was staying, hours before the police arrived. (PSI, p.3; 3/18/19 Tr., p.19, L.11 – p.21, L.20.) He was not aware there was a baggie of methamphetamine in the vehicle’s passenger compartment. (PSI pp.3-4; 3/18/19 Tr., p.21, L.20.)

The officers found the methamphetamine, along with a piece of scorched glass they believed to be the makings of a drug pipe. (PSI pp.3, 97; 3/18/19 Tr., p.19, L.11 – p.21, L.20.) Mr. Hill was charged with possession of a controlled substance and possession of drug paraphernalia. (R., pp.7, 25.) The State additionally filed an Information Part II, alleging Mr. Hill was a persistent violator. (R., p.35.) Mr. Hill repeatedly denied that the drugs were his or that he had any knowledge they had been in the vehicle. (PSI, p.4; 3/18/19 Tr., p.19, L.11 – p.21, L.20.) Pursuant to an agreement with the State, and because he did not want to run the risk of being disbelieved by the jury and sentenced as a persistent violator, Mr. Hill entered an *Alford*¹ plea and admitted guilt to the charge of possession of a controlled substance. (3/18/19 Tr., p.7, L.17 – p.8, L.7.) In exchange for Mr. Hill’s guilty plea, the State dismissed the paraphernalia charge and withdrew its persistent violator allegation; the State also agreed to

¹ *North Carolina v. Alford*, 400 U.S. 25 (1970).

recommend that the district court run Mr. Hill's sentence concurrently with the sentence in his DUI case. (R., pp.53, 60; 3/18/19 Tr., p.7, L.17 – p.8, L.7.)

At his sentencing, Mr. Hill asked the district court to given him the opportunity of probation and the chance to participate in a year-long life-skills program to help him find his way back into society, as he had only just been released to parole after nearly a decade in prison; he also asked the court to impose an underlying sentence not to extend beyond March 20, 2022², (three years), to match the sentence satisfaction date of his DUI case, with one year fixed. (5/6/19 Tr., p.12, Ls.8-12.)

The district court denied Mr. Hill's request for probation and sentenced him to five years, with six months fixed, and ordered that it be served concurrently with his sentence in the 2010 DUI case. (5/6/19 Tr., p.16, Ls.22-25; R., p.67.) Mr. Hill filed a timely appeal. (R., p.70.)

ISSUE

Did the district court abuse its discretion by imposing and excessive sentence?

ARGUMENT

The District Court Abused Its Discretion By Imposing An Excessive Sentence

A. Introduction

Mr. Hill challenges his five-year sentence as excessive. He argues that a sentence longer than the three years he requested is unnecessary, in light of the circumstances presented, representing an abuse of the district court's discretion.

² The Department of Correction's website shows the satisfaction date for the 2010 DUI sentence as 4/26/22. See https://www.idoc.idaho.gov/content/prisons/offender_search/detail/84293.

B. Standard Of Review

The appellate court reviews the district court's sentencing decisions for an abuse of discretion. *State v. Miller*, 151 Idaho 826, 834 (2011). The relevant inquiry is whether the trial court correctly perceived the issue as one of discretion; whether the trial court acted within the boundaries of its discretion and consistently with the legal standards applicable; and whether the trial court reached its decision by an exercise of reason. *Id.*

The appellate court reviews the length of a defendant's sentence under the above abuse of discretion standard. *State v. Oliver*, 144 Idaho 722, 724 (2007). Where a defendant challenges his sentence as excessively harsh, the appellate court will conduct an independent review of the record, giving consideration to the nature of the offense, the character of the offender, and the protection of the public interest. *Miller*, 151 Idaho at 834. A sentence is excessive, representing an abuse of discretion, if it is unreasonable "under any reasonable view of the facts." *State v. Strand*, 137 Idaho 457, 460 (2002); *State v. Toohill*, 103 Idaho 565, 568 (Ct. App. 1982). 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. Lundquist*, 134 Idaho 831, 836 (2000).

C. Mr. Hill's Five Year Sentence Is Excessive, And Therefore Unreasonable, In Light Of The Facts And Circumstances Presented In His Case

Mr. Hill was [REDACTED] at the time he was sentenced. (PSI, pp.2, 17.) He had spent the previous decade in prison for DUI, possessing controlled substances, and driving without privileges. (PSI, p.3-7) Although he has a criminal record, Mr. Hill is a nonviolent person³ and does not pose a safety risk to the community. On the contrary, when this Court conducts the

³ The record contains a single misdemeanor battery arising from an argument with his stepdaughter and an air/pellet gun. (PSI, p. 9.)

requisite independent review of the record, taking into account Mr. Hill's full history and the nature and circumstances of the offense, it is clear that what Mr. Hill needs, and what the protection of society requires, is programming that offers Mr. Hill life-changing skills and a supportive family to assist Mr. Hill reintegrate with his community.

Mr. Hill grew up without his mother, who walked out on the family when he was [REDACTED] [REDACTED] (PSI, p.10.) He was an only child and his father did what he could, but struggled working two jobs, and Mr. Hill spent his early years living out of state with other relatives. (PSI, p.10.) He was returned to his father during middle school, but soon fell in with bad company; he started using drugs, running away, and let his school grades slide. (PSI, p.10.) However, a rigorous "boot camp" experience arranged by his caring father and stepmother helped get him back on track for a while. (PSI, p.10.) Regrettably, however, Mr. Hill found himself entangled with the criminal justice system; he has already spent too many years of his life behind bars. (PSI, pp.3-10.)

Mr. Hill has also had to deal with mental health issues, with diagnoses of anxiety, depression, ADHD, as well as a sleeping disorder. (PSI, p.14.) He told his presentence investigator that he wanted further evaluation and he asked for mental health counseling, stating, "I need help coping with life and learning how to do that." (PSI, p.14.)

Mr. Hill also asked for help addressing his substance abuse disorders. Marijuana has been his drug of choice since his early teens, but he also has used methamphetamine, including a single use following his release from prison, when he again fell in with bad influences from his past. (PSI, p.10.) However, according to his GAIN evaluation, Mr. Hill's most clinically severe substance abuse disorder is alcohol. (PSI, p.22.) He is painfully aware how drinking has interfered with his responsibilities in life, and how his DUI and resulting incarceration has

derailed him from his goals. (PSI, p.22.) He has two now-teenaged children and he wants to make amends. (See PSI, p.27.)

He acknowledged his current sobriety but admitted that significant changes were still necessary before he could successfully, reliably function within his community. He was candid with his presentence investigator, and with the sentencing judge, when he admitted he need a serious life-skills program, and that he could not make the necessary changes on his own. (5/6/19 Tr., p.12, Ls.8-19.) Mr. Hill had submitted applications and been accepted to the New Life program in Boise and had arranged for funding. (5/6/19 Tr., p.12, Ls.8-19.) He told the court he was ready to heal “spiritually emotionally, morally, socially, psychologically, physically, and finically.” (5/6/19 Tr. p.13, Ls.20-22.) He had arranged for post-programming support and housing with his father. (5/6/15 Tr., p.11, Ls.13-15.)

Mr. Hill knows that none of the above excuses his criminal conduct. However, all of these circumstances should be taken into account, and if properly considered, demonstrate that a sentence longer than three years is unreasonably long, and that the district court abused its discretion by imposing an excessive sentence of five years.

CONCLUSION

Mr. Hill respectfully asks this Court to vacate his sentence and remand his case to the district court with instructions that it impose a less severe, reasonable sentence not exceed three years total.

DATED this 8th day of January, 2020.

/s/ Kimberly A. Coster
KIMBERLY A. COSTER
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of January, 2020, I caused a true and correct copy of the foregoing APPELLANT'S BRIEF, to be served as follows:

KENNETH K. JORGENSEN
DEPUTY ATTORNEY GENERAL
E-Service: ecf@ag.idaho.gov

/s/ Evan A. Smith

EVAN A. SMITH
Administrative Assistant

KAC/eas