

LAWRENCE G. WASDEN
Attorney General
State of Idaho
P.O. Box 83720
Boise, Idaho 83720-0010
(208) 334-4534

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

KACEY L. JONES
Deputy Attorney General
E-mail: ecf@ag.idaho.gov

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 47170-2019
Plaintiff-Respondent,)	
)	Clearwater County Case No. CR-2018-
v.)	253
)	
KARI MARTIN,)	
)	RESPONDENT'S BRIEF
Defendant-Appellant.)	
_____)	

Has Martin failed to show that the district court abused its sentencing discretion when it imposed a sentence of three years with 18 months determinate, suspended the sentence and placed Martin on probation for two years upon her conviction for felony possession of a controlled substance?

ARGUMENT

Martin Has Failed To Show That The District Court Abused Its Sentencing Discretion

A. Introduction

In August of 2017, a confidential informant conducted a controlled buy of methamphetamine. (R., p. 14.) The informant made contact with Martin and asked Martin if she

could “get anything.” (R., p. 14.) Martin responded in the affirmative and the confidential informant gave Martin fifty dollars to purchase drugs. (Id.) Martin then drove with the informant to another location and purchased methamphetamine using the money she had been given by the informant. (Id.) Martin returned to the vehicle and drove back to her residence. (Id.) Martin gave the informant 1.5 grams of methamphetamine that she purchased with the informant’s money and suggested the informant “weigh that.” (Id.) Law enforcement recorded the controlled buy using an electronic transmitting and recording device the informant had been wearing. (Id.) The state charged Martin with one count of felony delivery of a controlled substance. ¹ (R., p. 22.)

Pursuant to plea negotiations, Martin pled guilty to the lesser offense of felony possession of a controlled substance. (Tr., p. 5, L. 4 – p. 11, L. 19.) Both Martin and the state recommended the district court impose a period of probation. (Tr., p. 6, Ls. 1-4; p. 19, L. 21 – p. 22, L. 12.) The district court sentenced Martin to three years with 18 months determinate, suspended all three years, and placed Martin on a two-year term of probation. (Tr., p. 23, L. 24 – p. 26, L. 4.) Martin filed a timely notice of appeal. (R., pp. 74-75.)

B. Standard Of Review

The sentence imposed by the district court is reviewed for an abuse of discretion. State v. Matthews, 164 Idaho 605, 607, 434 P.3d 209, 211 (2018). “Under this standard, this Court considers whether the trial court: (1) correctly perceived the issue as one of discretion; (2) acted within the boundaries of its discretion; (3) acted consistently with the legal standards applicable to

¹During the course of proceedings, the defense requested Martin undergo a competency evaluation. (R., pp. 27-28.) The licensed psychologist that conducted the evaluation concluded that Martin was competent. (Conf., p. 5.) Based on the evaluation, the district court also found Martin competent. (R., p. 35.) Martin does not challenge that finding on appeal.

the specific choices available to it; and (4) reached its decision by an exercise of reason.” Id. (quotation marks and citation omitted).

C. Martin Has Shown No Abuse Of The District Court’s Sentencing Discretion

“When a trial court exercises its discretion in sentencing, the most fundamental requirement is reasonableness.” State v. McIntosh, 160 Idaho 1, 8, 368 P.3d 621, 628 (2015) (quotation marks and citation omitted). The Court considers the entire length of the sentence to determine its reasonableness. State v. Stevens, 146 Idaho 139, 148, 191 P.3d 217, 226 (2008). “When reviewing the reasonableness of a sentence, this Court conducts 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.” McIntosh, 160 Idaho at 8, 368 P.3d at 628. “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.” Id. “A sentence fixed within the limits prescribed by statute will ordinarily not be considered an abuse of discretion by the trial court.” State v. Nice, 103 Idaho 89, 90, 645 P.2d 323, 324 (1982). The appellant bears the burden of establishing that ““under any reasonable view of the facts, the sentence was excessive considering the objectives of criminal punishment.”” Matthews, 164 Idaho at 608, 434 P.3d at 212 (quoting State v. Varie, 135 Idaho 848, 856, 26 P.3d 31, 39 (2001)). ““In deference to the trial judge, this Court will not substitute its view of a reasonable sentence where reasonable minds might differ.”” Id. (quoting Stevens, 146 Idaho at 148-49, 191 P.2d at 26-27).

Here, the district court imposed a sentence within the statutory limits: conviction for felony possession of a controlled substance carries a potential maximum penalty of seven years, Idaho Code 37-2732(c)(1), and the district court imposed the “fairly lenient” sentence of three years with 18 months determinate, all suspended, with two years of probation. (Tr., p. 23, L. 24 – p. 26, L.

7.). Thus, its sentence will not be considered an abuse of discretion unless Martin demonstrates that the sentence was an abuse of discretion. Martin has failed to do so.

The record shows the district court applied the relevant legal standards in exercising its sentencing discretion. The district court considered the presentence investigation report, the nature of the charge, and the objectives of criminal punishment. (Tr., p. 23, Ls. 17-20; p. 26, Ls. 5-25.) After considering these factors and the parties' recommendations, the district court imposed a "fairly lenient" sentence, aimed in part to help Martin "find a different way of living . . . so you're not subjecting yourself to the stress . . . of being potentially charged with further offenses." (Tr., p. 26, Ls. 5-25.)

The district court's sentence is reasonable and appropriate in light of the facts and circumstances of this case, and is in accordance with the recommendation made by Martin, the state, and the presentence investigation report. (See Tr., p. 19, Ls. 21-24.) A period of probation, rather than incarceration, is reasonable given Martin's limited criminal history. (PSI, pp. 9-10.)² The length of the underlying sentence is reasonable to address the thinking errors Martin exhibited, for example, Martin claimed she was in trouble for "helping the wrong people." (PSI, p. 15.) Martin has admittedly had substance abuse problems in the past and she failed to take accountability for her actions in this case, shifting the blame onto her attorney, the state, the judge, the informant, and law enforcement. (PSI, pp. 8-9, 14.) The presentence investigation report recommended that Martin be subjected to drug testing "to ensure she is maintaining her sobriety." (PSI, p. 16.) The presentence investigation report also commented that Martin's "attitude towards this offense, and the entire criminal justice system is concerning and could be an indication that

² Citation to the Presentence Investigation Report uses the pagination in the "Confidential Documents" electronic file.

she will struggle on probation. She will need to take accountability for her actions in order to be successful during a period of probation.” (PSI, p. 17.) The sentence imposed is appropriate to make Martin take responsibility for her actions, deter further criminal conduct, and help Martin “find a different way of living.” (Tr., p. 26, Ls. 14-25.) Because the sentence imposed was based on the facts and circumstances of the case and furthers the objectives of criminal punishment, the district court reasonably exercised its sentencing discretion.

On appeal, Martin argues that the objectives of criminal punishment are not served by this sentence because Martin struggles financially, claims she no longer uses methamphetamine, and “does not need to be deterred from helping a friend—albeit with obtaining an illegal substance.” (Appellant’s brief, p. 4.) However, this overlooks the facts and circumstances in the record. The district court was aware of Martin’s financial situation and health concerns, and it took those in to account in imposing sentence. (PSI, pp. 12-15; Tr., p. 19, L. 24 – p. 20, L. 25; p. 25, Ls. 20-22; p. 26, Ls. 14-25.) Additionally, the district court considered the nature of the charge—that Martin was pleading guilty to the simple possession after the state amended the charge down from delivery of a controlled substance. (Tr., p. 26, Ls. 5-13.) Martin admitted to the district court that she possessed methamphetamine for another person. (Tr., p. 9, L. 10 – p. 10, L. 7.) That conduct is more than “helping a friend” and constitutes a criminal act that the district court properly sought to deter. Significantly, Martin recommended probation to the district court at sentencing: “I believe the recommendation of the Presentence Investigation Report is the same recommendation that the parties made to the Court, which is for a period of probation for Ms. Martin.” (Tr., p. 19, Ls. 21-24.) The record supports the sentence imposed. Martin has failed to show that this sentence is excessive under any reasonable view of the facts and circumstances. Thus, Martin has failed to meet her burden of showing that the district court abused its sentencing discretion.

CONCLUSION

The state respectfully requests this Court to affirm the judgment of the district court.

DATED this 31st day of December, 2019.

/s/ Kacey L. Jones _____
KACEY L. JONES
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 31st day of December, 2019, served a true and correct copy of the foregoing RESPONDENT'S BRIEF to the attorney listed below by means of iCourt File and Serve:

ANDREA W. REYNOLDS
DEPUTY STATE APPELLATE PUBLIC DEFENDER
documents@sapd.state.id.us

/s/ Kacey L. Jones
KACEY L. JONES
Deputy Attorney General