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6-23-2020

### State v. Farmer Respondent's Brief Dckt. 47282

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	
	)	NOS. 47282-2019, 47283-2019 &
Plaintiff-Respondent,	)	47284-2019
	)	
v.	)	Bingham County Case Nos.
	)	CR06-19-1273, CR06-19-1274 &
	)	CR06-19-1290
	)	
MONROE MONTE FARMER	)	
	)	RESPONDENT’S BRIEF
Defendant-Appellant.	)	
_____	)	

Has Monroe Monte Farmer failed to show that the district court abused its discretion by executing the imposed sentences in all three cases, and imposing consecutive sentences in CR06-19-1273 and CR06-19-1290?

ARGUMENT

Farmer Has Failed To Show That The District Court Abused Its Discretion

A. Introduction

In March of 2019, Blackfoot Police spoke with Larry Cloward, an attendant at Daisy’s V1 Store. (47282 PSI, p.5.) Larry reported that a Native American male entered the store and stole a

twenty-four pack of Budweiser and three cans of Natty Rush. (47282 PSI, p.5.) Larry stated that the male dropped one of the cans of Natty Rush, and when Larry attempted to help the male, he ran out of the store. (47282 PSI, p.5.) The suspect got into a red Yukon with the license plate [REDACTED], and drove south on Highway 91. (47282 PSI, p.5.) Through video and still photos of the incident, Fort Hall Detectives identified the male as Monroe Farmer. (47282 PSI, p.5.)

In April of 2019, a Bingham County Sheriff's deputy attempted to locate a black car that had been involved in a burglary. (47282 PSI, p.5.) The victim of the burglary described the suspects as possibly Hispanic, and that the driver was male, and the passenger a female. (47282 PSI, p.5.) The deputy located the vehicle north of Blackfoot City and initiated a traffic stop. (47282 PSI, p.5.) The deputy followed the black Chevy Malibu as it turned onto several different roads and failed to stop. (47282 PSI, p.5.) As the vehicle entered Blackfoot City, a Blackfoot Police Officer joined the pursuit. (47282 PSI, p.5.) The vehicle attempted to flee at speeds over ninety miles per hour, and the occupants were throwing cans out of the window. (47282 PSI, p.5.) As the black Chevy Malibu bounced through a large rut, one deputy stopped his patrol vehicle, and two others continued with the pursuit. (47282 PSI, p.5.) One deputy observed the occupants throw objects out of the window, including a large black purse. (47282 PSI, p.6.) The deputy saw the driver, Farmer, hold a black handgun out of the window, and the female wave a gun out of the passenger window and discharge it. (47282 PSI, p.6.) Authorities performed a pursuit intervention technique and spun the car around. (47282 PSI, p.6.) The male began fleeing from the vehicle toward a residence, and authorities chased him. (47282 PSI, p.6.) One deputy had his weapon drawn, and Farmer yelled for the deputy to shoot him. (47282 PSI, p.6.) Farmer ran into a field, and one deputy deployed his Taser with no effect. (47282 PSI, p.6.) One deputy tackled Farmer and placed him in hand cuffs. (47282 PSI, p.6.)

The next day, Blackfoot Police questioned Farmer about a series of burglaries that he was a suspect in. (47282 PSI, p.4.) Authorities first questioned Farmer about a theft that occurred in September of 2018 at Short Stop. (47282 PSI, p.4.) Farmer stated that he and LeNet Fellows entered Short Stop and stole alcoholic beverages. (47282 PSI, p.4.) Farmer stated that in December of 2018, he and LeNet were with Olivia Yokayama in a car when Olivia stole two bottles of liquor from Blackfoot Liquor Store. (47282 PSI, pp.4-5.) Farmer stated that he did not know that Olivia went into the store to steal liquor. (47282 PSI, p.5.) Authorities then questioned him about events that occurred in January of 2019 at Shortstop and Maverick. (47282 PSI, p.5.) Farmer stated that he drove Olivia and Samir Afraid of Bear to Shortstop for them to steal beer. (47282 PSI, p.5.) The store clerk got in an altercation with Olivia and Samir at the doorway, and the case of beer had broken, so they went to Maverick to steal beer there. (47282 PSI, p.5.) In April of 2019, Farmer entered V1 Daisy Store to steal alcohol, and he stated that he and Leola Dixey stole beer from Stinker Station. (47282 PSI, p.5.) Authorities questioned Farmer about the burglary prior to the pursuit that lead to his arrest, and he stated that he and Leola Dixey do not know people in Shelley, Idaho and they wanted liquor. (47282 PSI, p.5.) They then went into the store and stole liquor. (47282 PSI, p.5.)

In CR06-19-1273, the state charged Farmer with one count of felony burglary. (47282 R., pp.31-32.) In CR06-19-1274, the state charged Farmer with one count of fleeing or attempting to elude a peace officer, one count of aggravated assault upon certain personnel, one count of accessory to a felony, one count of driving while under the influence of alcohol, drugs, or any other intoxicating substance, and one count of destruction, alteration or concealment of evidence, and a deadly weapon enhancement. (47283 R., pp.49-54.) In CR06-19-1290, the state charged Farmer with five counts of burglary, and two counts of principal to burglary. (47284 R., pp.30-

32.) Farmer pleaded guilty to burglary in CR06-19-1273, fleeing or attempting to elude a peace officer, aggravated assault, and driving while under the influence of alcohol, drugs, or any other intoxicating substance in CR06-19-1274, and burglary in CR06-19-1290. (47282 R., pp.39-50, 69-72; 47283 R., pp. 93-101, 107-10.) In CR06-19-1273, the district court sentenced Farmer to six years, with two years determinate for felony burglary. (47282 R., p.70.) In CR06-19-1274, the district court sentenced him to five years, with two years determinate for fleeing or attempting to elude a peace officer, five years, with three years determinate for aggravated assault, and six months of local incarceration for driving while under the influence of alcohol, drugs, or any other intoxicating substance. (47283 R., p.127.) In CR 06-19-1290, the district court sentenced Farmer to six years, with two years determinate. (47284 R., p.73.) All other charges were dismissed pursuant to the plea agreement, and the district court ordered that the sentence imposed in CR06-19-1290 run concurrently with the sentence imposed in CR06-19-1273, but that the sentences imposed in CR06-19-1274 run concurrently with each other but consecutively with the sentences imposed in CR06-19-1273 and CR06-19-1290. (10/17/19 Tr., p. 26, L. 15 – p. 27, L. 7; 47282 R., pp.70-71.)

On appeal, Farmer argues that “the district court abused its discretion by imposing excessive sentences,” and that “the district court abused its discretion when it declined to place him directly on probation or to retain jurisdiction,” and by imposing consecutive sentences. (Appellant’s brief, pp.1, 11.) Farmer has failed to show that the district court abused its discretion by executing sentences of six years, with two years determinate, five years, with two years determinate, five years, with three years determinate, six years, with two years determinate, and six months of local incarceration. Farmer has also failed to show that the district court abused its discretion by imposing consecutive sentences in CR06-19-1273 and CR06-19-1290.

B. Standard Of Review

“Appellate review of a sentence is based on an abuse of discretion standard. Where a sentence is not illegal, the appellant has the burden to show that it is unreasonable and, thus, a clear abuse of discretion.” State v. Schiermeier, 165 Idaho 447, 451, 447 P.3d 895, 899 (2019) (internal quotations and citations omitted). A sentence of confinement is reasonable if it appears at the time of sentencing that confinement is necessary to accomplish the primary objective of protecting society and to achieve any or all of the related goals of deterrence, rehabilitation, or retribution applicable to a given case. Id. at 453, 447 P.3d at 902. “A sentence fixed within the limits prescribed by the statute will ordinarily not be considered an abuse of discretion.” Id. (internal quotations omitted). “In deference to the trial judge, this Court will not substitute its view of a reasonable sentence where reasonable minds might differ.” State v. Matthews, 164 Idaho 605, 608, 434 P.3d 209, 212 (2019) (citation omitted).

The decision to place a defendant on probation is a matter within the sound discretion of the district court and will not be overturned on appeal absent an abuse of that discretion. State v. Reed, 163 Idaho 681, 684, 417 P.3d 1007, 1010 (Ct. App. 2018) (citations omitted). Rehabilitation and public safety are dual goals of probation. State v. Le Veque, 164 Idaho 110, 114, 426 P.3d 461, 465 (2018). A decision to deny probation will not be deemed an abuse of discretion if it is consistent with the criteria articulated in I.C. § 19-2521. State v. Reber, 138 Idaho 275, 278, 61 P.3d 632, 635 (Ct. App. 2002) (citing State v. Toohill, 103 Idaho 565, 567, 650 P.2d 707, 709 (Ct. App. 1982)).

The decision whether to retain jurisdiction is a matter within the sound discretion of the district court and will not be overturned on appeal absent an abuse of that discretion. State v. Lee, 117 Idaho 203, 205-06, 786 P.2d 594, 596-97 (Ct. App. 1990). The primary purpose of a district

court retaining jurisdiction is to enable the court to obtain additional information regarding whether the defendant has sufficient rehabilitative potential and is suitable for probation. State v. Jones, 141 Idaho 673, 677, 115 P.3d 764, 768 (Ct. App. 2005). Probation is the ultimate goal of retained jurisdiction. Id. There can be no abuse of discretion if the district court has sufficient evidence before it to conclude that the defendant is not a suitable candidate for probation. Id.

C. Farmer Has Shown No Abuse Of The District Court's Discretion

The sentences imposed are within the statutory limits of I.C. §§ 18-1403, 49-1404(2), and 18-8005(1). The district court considered “the objectives in criminal punishment, which includes protection of society, deterrence, rehabilitation, and punishment,” and “whether [the court] should place [Farmer] on probation or confine [him] into prison.” (10/17/19 Tr., p.21, L.23 – p.22, L.3.) The district court noted that the instant offenses consisted of his “first, second, third, and fourth felony convictions,” and that Farmer’s “record prior to that wasn’t extensive.” (10/17/19 Tr., p.22, Ls.6-8.) The district court also addressed a pending felony for possession of a controlled substance, filed in 2017. (10/17/19 Tr., p.22, Ls.8-12.) The district court stated that “the charges in this case are extremely serious,” and expressed concerns about Farmer’s previous probation. (10/17/19 Tr., p.22, Ls.13-19.) The district court analyzed Farmer’s presentence investigation, noting his LSI score of thirty-three, placing him in the high risk category, his substance abuse level, his mental illness and mental health needs. (10/17/19 Tr., p.23, Ls.8-23; p.24, Ls.15-16.) The district court stated that driving “in a manner that elude police officers and put the rest of the community at risk” occurs too often in their community. (10/17/19 Tr., p.24, Ls.6-9.) The district court declined to place Farmer on probation, because the court did not feel it was appropriate, and further stated that “given the circumstances of this case and the facts surrounding the case, the Court is declining the request for retained jurisdiction.” (10/17/19 Tr., p.37, Ls.4-7.)

Farmer contends that the mitigating factors—substance abuse issues, desire for treatment, acceptance of responsibility, remorse, and lack of criminal history—show an abuse of discretion. (Appellant’s brief, pp.6-7.) Farmer’s argument does not show an abuse of discretion. His LSI score is a thirty-three, placing him in the high risk to reoffend. (47828 PSI, p.17.) The instant offenses of burglary, fleeing or attempting to elude a peace officer, aggravated assault, and driving while under the influence of alcohol, drugs, or any other intoxicating substance are dangerous and detrimental to the community. Farmer repeatedly chose to enter convenience stores with the intent to steal alcohol. When authorities attempted to stop his vehicle after a burglary, Farmer chose to attempt to flee, driving in excess speeds while throwing objects out of the window and waving a handgun. Farmer’s actions not only jeopardizes the safety of the employees and stores he chose to steal from, but the community as well.

The seriousness of the offenses committed, Farmer’s risk to reoffend, and his disregard for the order and safety of the public justifies the sentences imposed, and the manner in which they were imposed. Farmer is not a suitable candidate for probation, or retained jurisdiction. A lesser sentence would depreciate the seriousness of Farmer’s offenses, and would fail to deter Farmer and other potential offenders. The volume of crime committed by Farmer in these cases justifies the imposition of the cumulative sentences of 11 years with five years determinate. Farmer has failed to show that a lesser sentence is the only reasonable option. Farmer has failed to show that he is a suitable candidate for probation, or retained jurisdiction, and he has failed to show that the imposition of consecutive sentences in CR06-19-1273 and CR16-19-1290 is excessive. Farmer has failed to show that the district court abused its discretion.



CONCLUSION

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

DATED this 23rd day of June, 2020.

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

ZACHARI S. HALLETT  
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 23rd day of June, 2020, served a true and correct copy of the attached RESPONDENT'S BRIEF to the attorney listed below by means of iCourt File and Serve:

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/s/ Kenneth K. Jorgensen  
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