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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	
	)	Nos. 47352-2019, 47353-2019,
Plaintiff-Respondent,	)	47354-2019 & 47355-2019
	)	
v.	)	Kootenai County Case Nos.
	)	CR-2014-2867, CR-2014-7240,
BRADY LAWSON COKER,	)	CR-2014-11700 & CR28-18-10607
	)	
Defendant-Appellant.	)	RESPONDENT’S BRIEF
	)	

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ISSUES

1. Has Coker failed to establish that the district court abused its sentencing discretion when it imposed a sentence of five years fixed following his plea of guilty to witness intimidation?
2. Has Coker failed to establish that the district court abused its discretion when it relinquished jurisdiction?

STATEMENT OF THE CASE

Brady Lawson Coker pled guilty to criminal possession of a financial transaction card in case number CR-2014-2867 (47352 on appeal) and was sentenced to one year fixed and two years

indeterminate; he pled guilty to bribery of municipal or county officials in case number CR-2014-7240 (47353 on appeal) and was sentenced to five years fixed and five years indeterminate, to run consecutively. (47352 R., pp. 81-83; 47353 R., pp. 51-53.<sup>1</sup>) The district court retained jurisdiction and later placed Coker on probation in each case. (47353 R., pp. 51-53, 65-67.) In case number CR-2014-11700 (47354 on appeal), Coker pled guilty to destruction of evidence and was sentenced to two years fixed and four years indeterminate, to run concurrently with his other sentences. (47354 R., pp. 89-90.<sup>2</sup>) The district court suspended that sentence and placed Coker on probation. (47354 R., pp. 89-90.) After violating probation in all three cases, the district court extended Coker's probation by one year. (47354 R., 102-03.) Coker continued to violate probation; the district court revoked probation in all three cases and imposed sentence but retained jurisdiction. (47354 R., pp. 112-14, 116-18.) After an extended period of retained jurisdiction, the district court placed Coker on probation in June of 2018. (47354 R., pp. 122-23, 127-28.)

Less than a month later, law enforcement investigated a report of a battery involving Coker. (See 47355 R., pp. 18-26.<sup>3</sup>) Coker's girlfriend, M.H., reported that she and Coker had a verbal argument in her father's truck outside Coker's residence. (47355 R., p. 20.) M.H. wanted to leave but Coker wanted her to stay the night. (47355 R., p. 20.) "The argument escalated, with [Coker] grabbing the keys out of the ignition and throwing them out the window." (47355 R., p. 20.) Coker also took M.H.'s cell phone from her. (47355 R., p. 20.) M.H. tried looking for the keys but couldn't find them, and climbed into the bed of the truck to look for the spare key. (47355 R., p. 20.) Coker grabbed M.H.'s purse strap, which was slung over her torso, and pulled her out of the

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<sup>1</sup> Citations to "47352 R." refer to the 296-page document and citations to "47353 R." refer to the 261-page electronic document.

<sup>2</sup> Citations to "47354 R." refer to the 235-page electronic document.

<sup>3</sup> Citations to "47355 R." refer to the 158-page electronic document.

truck bed, causing her to land on her back on the ground. (47355 R., pp. 20, 22.) Coker pushed M.H. several times and then placed both hands around her neck and choked her for several seconds. (47355 R., p. 20.) Coker pushed M.H. into his house and refused to let her leave. (47355 R., p. 20.) In his bedroom, Coker ordered M.H. to take her clothes off; when she resisted he “aggressively” took them off her himself, elbowing her in the mouth and causing a fat lip in the process. (47355 R., p. 20.) Coker slept; M.H. could not. (47355 R., p. 20.) When M.H. got up to use the bathroom, Coker followed her to make sure she didn’t leave. (47355 R., p. 23.) He even urinated in a soda can in the bedroom so he could keep an eye on her. (47355 R., p. 23.) The next morning, M.H. “told [Coker] what he wanted to hear”—that she loved him and would stay with him. (47355 R., p. 23.) Coker helped M.H. find her keys and she left. (47355 R., p. 21.)

The state charged Coker with attempted strangulation and second degree kidnapping, with a persistent violator enhancement, in case number CR28-18-10607 (47355 on appeal). (47355 R., pp. 11-13, 54-56.) The state also filed motions for probation violations in Coker’s three other cases for committing a new crime. (See 47352 R., pp. 155-56.) At his preliminary hearing for his new case, M.H. failed to appear. (See 47355 R., pp. 41-42.) The state requested a continuance based on its belief that Coker intimidated M.H. to prevent her from testifying. (47355 R., p. 41.) Later, the state added a charge of witness intimidation, which alleged that Coker encouraged others to contact M.H. before the hearing to prevent her from testifying and that he wrote her a letter after she failed to appear that encouraged her to tell the prosecutors that she lied so the case could be dropped. (See 47355 R., pp. 43-45, 54-56; see also PSI-139, pp. 72-88.<sup>4</sup>)

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<sup>4</sup> There are four “Confidential Documents” electronic documents on appeal. Citations to these documents will be to “PSI” along with the number of pages in the corresponding electronic document. For example, citation to “PSI-139” refers to the 139-page electronic document.

Pursuant to a plea agreement, Coker pled guilty to amended charges of witness intimidation, misdemeanor domestic battery, and misdemeanor violation of a no contact order, and he admitted the probation violations in his other three cases. (47355 R., p. 60-63.) The district court sentenced Coker to credit for time served on the misdemeanor charges; on the felony witness intimidation charge, it sentenced Coker to five years fixed to run consecutively to his other sentences. (47355 R., pp. 96-99.) On his probation violations, the district court imposed the underlying sentences and revoked probation. (47355 R., pp. 96-99.) The district court retained jurisdiction on all four cases. (47355 R., pp. 96-99.) After a hearing on his rider review, the district court relinquished jurisdiction. (47355 R., p. 108-13.) Coker filed Rule 35 motions requesting leniency, which the district court denied. (47352 R., pp. 252-53; 47353 R., pp. 217-18; 47354 R., pp. 191-92; 47355 R., pp. 114-22.) Coker filed timely notices of appeal from the district court's order relinquishing jurisdiction. (47352 R., pp. 261-63, 289-92; 47353 R., pp. 226-28, 254-57; 47354 R., pp. 200-02, 228-31; 47355 R., pp. 123-25, 151-54.)

## ARGUMENT

### I.

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

##### A. Introduction

Coker asserts that the district court abused its discretion when it sentenced him to five years fixed following his plea of guilty to witness intimidation. (Appellant's brief, pp. 5-8.) Specifically, Coker argues that the district court failed to reach its decision by an exercise of reason. (Appellant's brief, p. 5.) The district court did not abuse its discretion when it sentenced Coker to five years fixed and retained jurisdiction, in light of his pattern of criminal behavior and demonstrated failure to rehabilitate.

B. Standard Of Review

The length of a sentence is reviewed under an abuse of discretion standard considering the defendant's entire sentence. State v. Oliver, 144 Idaho 722, 726, 170 P.3d 387, 391 (2007) (citing State v. Strand, 137 Idaho 457, 460, 50 P.3d 472, 475 (2002); State v. Huffman, 144 Idaho 201, 159 P.3d 838 (2007)). Where a sentence is within statutory limits, the appellant bears the burden of demonstrating that it is a clear abuse of discretion. State v. Baker, 136 Idaho 576, 577, 38 P.3d 614, 615 (2001) (citing State v. Lundquist, 134 Idaho 831, 11 P.3d 27 (2000)). In evaluating whether a lower court abused its discretion, the appellate court conducts a four-part inquiry, which asks "whether the trial court: (1) correctly perceived the issue as one of discretion; (2) acted within the outer boundaries of its discretion; (3) acted consistently with the legal standards applicable to the specific choices available to it; and (4) reached its decision by the exercise of reason." State v. Herrera, 164 Idaho 261, 272, 429 P.3d 149, 160 (2018) (citing Lunneborg v. My Fun Life, 163 Idaho 856, 863, 421 P.3d 187, 194 (2018)).

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

To bear the burden of demonstrating an abuse of discretion, the appellant must establish that, under any reasonable view of the facts, the sentence was excessive. State v. Farwell, 144 Idaho 732, 736, 170 P.3d 397, 401 (2007). In determining whether the appellant met this burden, the court considers the entire sentence but presumes that the determinate portion will be the period of actual incarceration. State v. Bailey, 161 Idaho 887, 895, 392 P.3d 1228, 1236 (2017) (citing Oliver, 144 Idaho at 726, 170 P.3d at 391). "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." State v. McIntosh, 160 Idaho 1, 8, 368 P.3d 621, 628 (2015). To establish that the sentence was excessive, the

appellant must demonstrate that reasonable minds could not conclude the sentence was appropriate to accomplish the sentencing goals of protecting society, deterrence, rehabilitation, and retribution. Farwell, 144 Idaho at 736, 170 P.3d at 401. ““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 (2018) (quoting State v. Stevens, 146 Idaho 139, 148-49, 191 P.3d 217, 226-27 (2008)).

The sentence is reasonable in light of Coker’s repeated criminal behavior. Coker was arrested in CR-2014-2867, in which he ultimately pled guilty to criminal possession of a financial transaction card. (See 47352 R., pp. 27, 81-83.) While in transport to the jail, Coker offered the arresting officer ten thousand dollars to let him go, which gave rise to his charge and ultimate conviction for bribery of an official in CR-2014-7240. (See 47353 R., pp. 25-26, 51-53.) While those cases were pending, Coker was arrested in CR-2014-11740, in which he pled guilty to destruction of evidence. (See 47354 R., pp. 89-91.) Less than a month after completing a rider on these cases, Coker was charged with attempted strangulation and second degree kidnapping in CR28-18-10607. (47355 R., pp. 11-13, 54-56.) Coker incurred his witness intimidation charge after his attempts to prevent M.H. from testifying at the preliminary hearing in his hopes that the case would get dismissed. (47355 R., pp. 43-45 54-56.) While that case was pending, Coker earned a misdemeanor battery charge for an incident in jail in which he punched a fellow inmate in the head repeatedly. (47355, pp. 67-72; PSI-139, pp. 9, 64.) Additionally, Coker incessantly violated the no-contact order protecting M.H., calling her while in custody over seven hundred times from his and other inmates’ phone accounts. (PSI-139, p. 45; Tr., p. 21, Ls. 10-12.) Given Coker’s pattern of criminal behavior and blatant disregard for court orders, the sentence of five

years fixed was necessary to accomplish the sentencing goals of protecting society, deterrence, and retribution.

The sentence is also reasonable in light of Coker's demonstrated failure to rehabilitate despite repeated opportunities to do so. Coker went on a rider and was placed on probation in 2015. (PSI-139, p. 8.) Once on probation, Coker failed to report for treatment and absconded from supervision. (PSI-139, p. 8.) His probation was extended for a year based on his probation violation, and he was accepted into drug court. (PSI-139, p. 8.) Coker missed UAs and used suboxone, cocaine, hydrocodone, and alcohol. (PSI-139, pp. 8-9.) He completed an inpatient treatment program in 2017. (PSI-139, p. 9.) Shortly thereafter, he tested positive for opiates, missed drug court, and failed to be in contact with his probation officer. (PSI-139, p. 9.) In April of that year, he was arrested for possession of marijuana. (PSI-139, p. 9.) Coker continued to test positive for alcohol, again absconded from supervision, and was terminated from drug court. (PSI-139, p. 9.) Coker was eventually arrested on an outstanding warrant and sent on another rider in October of 2017. (PSI-139, p. 9.) In February of 2018, the Department of Corrections (DOC) recommended the court relinquish jurisdiction based on Coker's poor performance. (PSI-156, p. 79.) Nonetheless, the court allowed Coker to continue on the rider, completing it in June, at which time he was placed back on probation. (PSI-139, p. 9.) Despite these repeated opportunities for treatment and rehabilitation, Coker committed another felony only weeks after being placed on probation. (PSI-139, p. 9.) The district court did not abuse its discretion when it determined that five years fixed was a reasonable sentence in light of Coker's failure to take advantage of the numerous rehabilitative opportunities he has received in the past.

Coker argues that the district court failed to reach its decision by an exercise of reason. (See Appellant's brief, p. 5.) Specifically, Coker argues that the sentence is excessive in light of

his mental health and substance abuse issues. (Appellant’s brief, pp. 6-8.) The district court made clear that it did not believe mental health caused Coker to commit the criminal acts underlying his conviction. (See Tr., p. 21, L. 14–p. 23, L. 16.) However, the district court acknowledged Coker’s mental health issues and took them into consideration in determining the appropriate sentence: “I, with great reluctance, will retain jurisdiction only to see if you can get into Mental Health Court. [...] I believe you have a mental illness. Several professionals think you have a mental illness, so get the help you need on the rider, get the medication you need....” (Tr., p. 25, Ls. 8-10; p. 26, Ls. 8-11.) The district court did not abuse its discretion when it sentenced Coker to five years fixed, and retained jurisdiction.

## II.

### Coker Has Failed To Show That The District Court Abused Its Discretion When It Relinquished Jurisdiction

#### A. Introduction

Coker asserts that the district court abused its discretion when it relinquished jurisdiction in all four cases. (Appellant’s brief, pp. 8-11.) The district court retained jurisdiction to allow Coker to seek Mental Health Court and made clear that it expected him to complete the rider without disciplinary issues for the court to feel comfortable placing him on probation. Coker received several disciplinary sanctions during his rider and had not made arrangements for either Mental Health Court or Good Samaritan as part of his probation plan. The district court did not abuse its discretion when it relinquished jurisdiction.

#### B. Standard Of Review

The decision to place a defendant on probation or whether, instead, to relinquish jurisdiction over the defendant 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. Hansen, 154 Idaho 882, 889, 303 P.3d 241, 248 (Ct. App. 2013) (citing State v. Hood, 102 Idaho 711, 712, 639 P.2d 9, 10 (1981); State v. Lee, 117 Idaho 203, 205-06, 786 P.2d 594, 596-97 (Ct. App. 1990)). A court's decision to relinquish jurisdiction will not be deemed an abuse of discretion if the trial court has sufficient information to determine that a suspended sentence and probation would be inappropriate under I.C. § 19-2521. State v. Brunet, 155 Idaho 724, 729, 316 P.3d 640, 645 (2013); Hansen, 154 Idaho at 889, 303 P.3d at 248 (citing State v. Statton, 136 Idaho 135, 137, 30 P.3d 290, 292 (2001)).

C. The District Court Did Not Abuse Its Discretion When It Relinquished Jurisdiction

Good performance while on a retained jurisdiction program “does not alone create an abuse of discretion in the district judge's decision not to place the defendant on probation or reduce the sentence.” State v. Flores, 162 Idaho 298, 300, 396 P.3d 1180, 1182 (2017) (internal quotation omitted). A court does not abuse its discretion in relinquishing jurisdiction if the record shows that the district court “properly considered the information before it and determined that probation was not appropriate.” State v. Pelland, 159 Idaho 870, 367 P.3d 265, 269 (Ct. App. 2016).

The district court did not abuse its discretion when it relinquished jurisdiction after Coker received thirteen disciplinary sanctions on his rider, especially given Coker's criminal history and previous rehabilitative opportunities (discussed above and incorporated by reference herein). When the district court retained jurisdiction, it made the expectations clear: “If you're able to put together a flawless rider and be accepted into the Mental Health Court program and endure their tight supervision, I might put you on probation.” (Tr., p. 25, Ls. 19-22.) That expectation was reasonable, given that Coker had previously completed two riders without any disciplinary sanctions. (See PSI-156, pp. 33, 97.) “You've got to show me that you can make better

decisions....” (Tr., p. 25, Ls. 11-12.) Coker failed to do so. Coker received one formal disciplinary write-up and twelve informal disciplinary write-ups during his rider. (PSI-156, pp. 118-19.) The district court expressed concern that Coker was “actually getting worse than better as far as choosing to disobey rules.” (Tr., p. 44, Ls. 7-9.) Additionally, Coker’s probation plan failed to include either Mental Health Court or Good Samaritan. (See PSI-156, pp. 120-22.) The district court noted that, “[a]ccording to this report from the Department of Corrections, you weren’t even planning on doing either of those.” (Tr., p. 44, Ls. 16-24.) Coker’s performance on his rider demonstrated his inability or unwillingness to follow rules and follow through. The district court did not abuse its discretion when it relinquished jurisdiction.

Coker argues that the district court arbitrarily refused to place him on probation and disregarded the progress he made on his rider. (Appellant’s brief, pp. 9-11.) However, the district court’s decision to relinquish jurisdiction was not arbitrary. The district court made clear that Coker was expected to follow the rules on his rider. Coker failed to do so. Coker concedes that he “received some disciplinary warnings during his rider.” (Appellant’s brief, p. 9.)

Additionally, the positive feedback Coker received is insufficient to render the district court’s decision to relinquish jurisdiction an abuse of discretion. The DOC’s review of Coker’s first rider (completed in 2015) noted progress, healthier behaviors, and an improved attitude. (PSI-156, pp. 33-34.) However, Coker quickly absconded from supervision and resumed his criminal behaviors once placed on probation. (See PSI-139, pp. 8-9.) Coker also received positive feedback on review of his rider completed in June of 2018. (PSI-156, pp. 96-99.) The DOC noted that “Coker appears to have taken advantage of the second chance he has been given.” (PSI-156, p. 99.) The report stated that Coker “developed alternative ways to cope with” high risk situations and negative thought patterns, and also “developed a success plan that addresses his needs and

goals.” (PSI-156, p. 99.) Nonetheless, Coker committed a felony just weeks after he was placed on probation.

His most recent rider review similarly noted progress in Coker’s behavior and attitude. (PSI-156, pp. 119-22.) However, the feedback was not entirely positive. Along with his disciplinary issues, the report noted that Coker continues to struggle “with ‘impulsivity’ and ‘lack of control’ when he is tempted with something, wants to do something.” (PSI-156, p. 120.) Not everyone was convinced by his apparent change: “[Coker] appears to know he is ‘under the radar’ and close to completing his program that he is very aware of his behavior and making an effort to make sure we have observed it. He appears to be making an effort, but I can’t say I’m convinced.” (PSI-156, pp. 129-30.) Overall, the report assessed that Coker could be “amenable to treatment and supervision in the community, *if he so chooses.*” (PSI-156, p. 119 (emphasis added).) Coker has demonstrated, both on his rider and in the community, that he will not choose to obey the rules or follow the law. Therefore, the district court did not abuse its discretion when it relinquished jurisdiction.

#### CONCLUSION

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

DATED this 11th day of May, 2020.

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 11th day of May, 2020, served a true and correct copy of the foregoing RESPONDENT'S BRIEF to the attorney listed below by means of iCourt File and Serve:

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