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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 47379-2019
Plaintiff-Respondent,)	
)	Kootenai County Case No.
v.)	CR28-18-15235
)	
JOSHUA CHRISTOPHER LYONS-MILLER,)	
)	RESPONDENT'S BRIEF
Defendant-Appellant.)	
_____)	

ISSUES

1. Has Lyons-Miller failed to establish an abuse of discretion in the district court's decision to not withhold judgment upon the jury's verdict finding him guilty of possession of methamphetamine?
2. Has Lyons-Miller failed to establish that the district court abused its discretion by imposing an underlying unified sentence of three years, with one and one-half years fixed, for possession of methamphetamine?

STATEMENT OF THE CASE

On July 14, 2018, an officer "responded to a 911 hang up" at the Budget Saver Motel and observed Lyons-Miller arguing with his girlfriend, Summer, in the manager's quarters of the

motel. (R., p. 14.) Summer reported that she and Lyons-Miller were assisting customers when Lyons-Miller “insulted her in an area where the customers could hear them argue,” after which they “left the office and retreated back into the [manager’s quarters].” (Id.) As they were arguing, Lyons-Miller “slapped her across the left cheek,” then “tackled her to the ground causing her head to slam on the floor.” (Id.) The officer arrested Lyons-Miller “for domestic battery and an outstanding warrant from Shoshone County Idaho.” (R., p. 15.) Upon searching Lyons-Miller incident to arrest, the officer found “a small clear baggie in his right coin pocket of his pants.” (Id.) Lyons-Miller told the officer “it was from cigarettes”; however, there was “a white crystalline substance in the baggie” that tested presumptive positive for methamphetamine. (Id.)

The state charged Lyons-Miller with possession of methamphetamine. (R., pp. 32-33.) The case proceeded to trial and a jury found Lyons-Miller guilty. (R., p. 135.) At sentencing, the state recommended a unified sentence of three years, with one and one-half years fixed, with a period of retained jurisdiction. (Tr., p. 205, L. 25 – p. 206, L. 5.) Lyons-Miller’s counsel requested that the district court place Lyons-Miller on probation for one year, but did not recommend a specific underlying term. (Tr., p. 208, Ls. 8-12.) The district court imposed a unified sentence of three years, with one and one-half years fixed, suspended the sentence, and placed Lyons-Miller on supervised probation for two years. (R., pp. 146-54.) Lyons-Miller filed a notice of appeal timely from the judgment of conviction. (R., pp. 155-59.)

Lyons-Miller asserts that the district court abused its discretion “by denying [his] request for a withheld judgment and by imposing an underlying suspended sentence that is excessive under the circumstances of his case.” (Appellant’s brief, pp. 3.)

ARGUMENT

I.

Lyons-Miller Has Failed To Show That The District Court Abused Its Discretion When It Did Not Withhold Judgment

A. Introduction

The district court imposed a unified sentence of three years, with one and one-half years fixed, suspended the sentence, and placed Lyons-Miller on supervised probation for two years upon the jury's verdict finding him guilty of possession of methamphetamine. (R., pp. 146-54.) On appeal, Lyons-Miller contends that the district court "erred in declining to withhold judgment" because he "has a positive record of overcoming obstacles," his offense "is not a particularly serious one," and he has "a single prior offense as an adult – misdemeanor driving without privileges." (Appellant's brief, pp. 4-5.) Lyons-Miller has failed to show error in the district court's decision to not withhold judgment.

B. Standard Of Review

Pursuant to Idaho Code § 37-2738, when sentencing an individual for possession of methamphetamine (in violation of I.C. § 32-2732(c)(1)), the district court shall not enter a withheld judgment unless it finds by a preponderance of the evidence that the defendant has "no prior finding of guilt" for "any violation of chapter 80, title 18, Idaho Code ... whatsoever." I.C. § 37-2738(4)(a).

C. The District Court Did Not Err By Not Withholding Judgment

Application of the forgoing legal standard to the facts of this case shows no error by the district court. According to the presentence report, Lyons-Miller was convicted of driving

without privileges, in violation of Idaho Code § 80-8001, in 2017. (PSI, pp. 7-8.¹) Because Lyons-Miller had a prior finding of guilt for a violation of chapter 80, title 18, of Idaho Code, the district court was precluded from entering a withheld judgment when sentencing Lyons-Miller for possession of methamphetamine – a violation of I.C. § 32-2732(c)(1) – in this case. I.C. 32-2738(4)(a). On appeal, Lyons-Miller incorrectly states that, at sentencing, he “asked the district court for a withheld judgment.” (Appellant’s brief, p. 2 (citing Tr., p. 207, Ls. 24-25).) In fact, Lyons-Miller’s counsel essentially acknowledged that a withheld judgment was not an available option in this case, by telling the district court: “If [Lyons-Miller] *didn’t* have the driving without privileges, I would ask this court to consider a withheld judgment in the matter.” (Tr., p. 207, L. 23 – p. 208, L. 1 (emphasis added).) Because the district court was without discretion to withhold judgment in this case, it did not err by not withholding judgment.

II.

Lyons-Miller Has Failed To Establish That The District Court Abused Its Discretion By Imposing An Underlying Unified Sentence Of Three Years, With One And One-Half Years Fixed, Upon The Jury’s Verdict Finding Him Guilty Of Possession Of Methamphetamine

A. Introduction

On appeal, Lyons-Miller contends that his underlying unified sentence of three years, with one and one-half years fixed, is excessive in light of his education and employment history, his minimal adult criminal record, and his claim that his offense “is not a particularly serious one.” (Appellant’s brief, pp. 4-5.) The record supports the sentence imposed.

¹ PSI page numbers correspond with the page numbers of the electronic file “Confidential Documents Appeal Volume 1 11-1-2019 13.01.42 30152306 9B163EE5-A9AB-4A62-99BC-A4F39858F119.pdf.”

B. Standard Of Review

Appellate review of a sentence is based on an abuse of discretion standard. State v. Dobbs, 166 Idaho 202, ___, 457 P.3d 854, 855 (2020) (citation omitted). “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, 454, 447 P.3d 895, 902 (2019) (citation omitted). “A sentence fixed within the limits prescribed by the statute will ordinarily not be considered an abuse of discretion by the trial court.” Id. “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 the given case.’” Id. (quoting State v. Toohill, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982)). The district court has the discretion to weigh those objectives and to give them the weight deemed appropriate. Dobbs, 166 Idaho at ___, 457 P.3d at 856. “In deference to the trial judge, this Court will not substitute its view of a reasonable sentence where reasonable minds might differ.” State v. Bodenbach, 165 Idaho 577, 591, 448 P.3d 1005, 1019 (2019) (citation omitted).

C. Lyons-Miller Has Shown No Abuse Of The District Court’s Discretion

The district court’s decision to impose a unified sentence of three years, with one and one-half years fixed, is supported by the record. Although Lyons-Miller’s *adult* criminal record is not extensive, he has a long history of disregarding the law. His record dates back to at least 2004 and contains juvenile adjudications for criminal conspiracy, burglary, unlawful entry, three adjudications for petit theft, two adjudications for possession/consumption/purchase of alcohol by a minor, two adjudications for violation of curfew, and possession/distribution/use of tobacco by a minor. (PSI, pp. 6-7.) Lyons-Miller’s adult criminal record includes convictions for driving

without privileges, operating a vehicle without a current or valid driver's license, and the instant possession of methamphetamine offense, as well as a second charge for driving without privileges from 2019, for which the disposition is listed as "failure to appear." (PSI, pp. 7-8.) Additionally, Lyons-Miller admitted that he abused marijuana between 2004 and 2010. (PSI, p. 13.) However, he denied that he has any kind of substance abuse problem or that he needs treatment, and he refused to accept responsibility for possessing methamphetamine in this case. (PSI, pp. 6, 13-14.) The presentence investigator determined that Lyons-Miller presents a moderate risk to reoffend. (PSI, p. 16.)

At sentencing, the district court applied the correct legal standards. (Tr., p. 208, Ls. 20-23.) It noted that, although Lyons-Miller did not have a significant prior record, he did have "some record." (Tr., p. 208, Ls. 23-24.) The district court's decision to place Lyons-Miller on probation with an underlying unified sentence of three years, with one and one-half years fixed, was reasonable in light of Lyons-Miller's history of disregarding the law, his failure to accept responsibility for his actions in this case, and his moderate risk to reoffend. Lyons-Miller has failed to establish that the district court abused its sentencing discretion.

CONCLUSION

The state respectfully requests this Court to affirm Lyons-Miller's conviction and sentence.

DATED this 19th day of May, 2020.

/s/ Kenneth K. Jorgensen
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 19th day of May, 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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