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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 47390-2019
Plaintiff-Respondent,)	
)	CANYON COUNTY NO. CR14-18-20791
v.)	
)	
ANTHONY AARON FRANCES,)	APPELLANT'S BRIEF
)	
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Anthony Aaron Frances appeals from his judgment of conviction for malicious injury to property. Mr. France pleaded guilty, and the district court imposed a unified sentence of five years, with one year determinate.¹ Mr. Frances appeals, and he asserts that the district court abused its discretion by imposing an excessive sentence.

¹ Mr. Frances also entered a plea to misdemeanor domestic assault but does not appeal that conviction or sentence. (Entry of Plea Tr., p.2, Ls.6-14.)

Statement of the Facts & Course of Proceedings

On October 12, 2018, officers with the Caldwell Police Department responded to a domestic violence call. (Presentence Investigation Report (hereinafter, PSI), p.3.) Melisa Gonzalez reported that Mr. Frances had been at a bar with his brother when he called and asked her for a rider home. (PSI, p.4.) She reported that Mr. Frances told her that her children could not see her family and they got into an argument. (PSI, p.4.) According to Ms. Gonzalez, Mr. Frances hit her in the face and she slid backwards into the sliding glass door in the dining room. (PSI, p.4.) She eventually went to the master bathroom and called the police and Mr. Frances damaged both the bedroom and bathroom doors. (PSI, p.4.)

Mr. Frances was charged with domestic battery – traumatic injury and malicious injury to property. (R. p.32.) The State also sought a persistent violator enhancement. (R, p.35.) Mr. Frances pleaded guilty to malicious injury to property, and the district court imposed a sentence of five years, with one year determinate. (R., p.88.) Mr. Frances appealed. (R., p.90.) On appeal, he asserts that the district court abused its discretion by imposing an excessive sentence.

ISSUE

Did the district court abuse its discretion when it imposed a unified sentence of five years, with one year determinate, upon Mr. Frances following his plea of guilty to malicious injury to property?

ARGUMENT

The District Court Abused Its Discretion When It Imposed A Unified Sentence Of Five Years, With One Year Determinate, Upon Mr. Frances Following His Plea Of Guilty To Malicious Injury To Property

“It is well-established that ‘[w]here a sentence is within statutory limits, an appellant has the burden of showing a clear abuse of discretion on the part of the court imposing the

sentence.”” *State v. Pierce*, 150 Idaho 1, 5 (2010) (quoting *State v. Jackson*, 130 Idaho 293, 294 (1997) (alteration in original)). Here, Frances’s sentence does not exceed the statutory maximum. Accordingly, to show that the sentence imposed was unreasonable, Mr. Frances “must show that the sentence, in light of the governing criteria, is excessive under any reasonable view of the facts.” *State v. Strand*, 137 Idaho 457, 460 (2002).

“‘Reasonableness’ of a sentence implies that a term of confinement should be tailored to the purpose for which the sentence is imposed.” *State v. Adamcik*, 152 Idaho 445, 483 (2012) (quoting *State v. Stevens*, 146 Idaho 139, 148 (2008)).

In examining the reasonableness of a sentence, the Court conducts an independent review of the entire record available to the trial court at sentencing, focusing on the objectives of criminal punishment: (1) protection of society; (2) deterrence of the individual and the public; (3) possibility of rehabilitation; and (4) punishment or retribution for wrongdoing.

Stevens, 146 Idaho at 148. “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. Delling*, 152 Idaho 122, 132 (2011).

When asked about the instant offense, Mr. Frances explained that he had been out drinking with his brother and Ms. Gonzalez’s brother and her brother stated that he had been sexually abused by a family member as a child. (PSI, p.6.) Mr. Frances and Ms. Gonzalez got into an argument when he stated that he did not want the kids going to her family’s house. (PSI, p.6.) He acknowledged that he was under the influence of alcohol at time and stated that he felt horrible for scaring his family and hurting them mentally, physically, and financially. (PSI, p.6.)

Mr. Frances addressed the district court at the sentencing hearing. He stated,

First off, I just want to say that, you know, I take full responsibility of what I did and I feel that the class that I have been attending and my personal therapy has really helped with issues I’ve had in the past. And I just feel that right now, I’m in a good spot even with all this stuff and I just don’t want to go backwards. I just

want to be able to be a good father for my kids. And I'm sorry to Melissa. I didn't ever want to hurt her.

(Sent Tr., p.19, L.20 – p.20, L.3.) Mr. Frances had been participating in domestic violence programming through A New Path and was on week 39 of the course. (Sent. Tr., p.15, Ls.1-8.) He had no unexcused absences and had been participating in grounds and completing his work. (Sent. Tr., p.15, Ls.5-17.) Mr. Frances informed the court that:

[o]ne of the biggest things that we've learned in class was like the trauma that it has on the kids, especially when they're younger, and the way that we deal with things and the way the brain grows and how it affects us later in life.

And being aware of what causes that or what triggers us to act in the way we do because everybody's going to have issues or traumas in their life. Everybody's going to have things that come up but if we're more willing to understand or be aware of what to do in those situations, then we don't have to act in violence.

(Sent. Tr., p.20, Ls.11-21.) Mr. Frances concluded by stating, "I committed a crime and I regret it but I understand." (Sent. Tr., p.20, Ls.24-25.)

Further, counsel for Mr. Frances noted that he had a "significant trauma history." (Sent. Tr., p.14, L.25.) Mr. Frances's father had attempted to strangle him, hit him with a 2x4 or belt, and punched him. (PSI, p.11.) While Mr. Frances has a strained relationship with his father, he had a good relationship with his mother, who does not abuse alcohol or illegal drugs. (PSI, p.11.) It is clear that Mr. Frances was learning to deal with this trauma through A New Path.

In sum, Mr. Frances dealt with significant trauma in his life. In this case, he accepted responsibility for his actions and expressed remorse to Ms. Gonzalez. He understood that he needed treatment, which he was already seeking at the time of sentencing. He regretted hurting his family and wanted to be a good father to his kids. Considering this information, Mr. Frances submits that the district court abused its discretion by imposing an excessive sentence in this case.

CONCLUSION

Mr. Frances respectfully requests that this Court reduce his sentence as it deems appropriate. Alternatively, he requests that his case be remanded to the district court for a new sentencing hearing.

DATED this 16th day of April, 2020.

/s/ Justin M. Curtis
JUSTIN M. CURTIS
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of April, 2020, I caused a true and correct copy of the foregoing APPELLANT’S BRIEF, to be served as follows:

KENNETH K. JORGENSEN
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/s/ Evan A. Smith
EVAN A. SMITH
Administrative Assistant

JMC/eas