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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 47498-2019
Plaintiff-Respondent,)	
)	Kootenai County Case No.
v.)	CR28-19-15787
)	
JAMES NEIL MOEN,)	
)	RESPONDENT'S BRIEF
Defendant-Appellant.)	
_____)	

Issue

Is Moen's sentencing challenge barred by the doctrine of invited error?

Moen's Sentencing Challenge Is Barred By The Doctrine Of Invited Error

Pursuant to a Rule 11 plea agreement, Moen pled guilty to burglary, the state dismissed a persistent violator enhancement, and the parties stipulated to a sentence of 13 months fixed. (R., pp. 37-40.) At sentencing, Moen's counsel requested that the district court "go along with" the plea agreement. (10/17/19 Tr., p. 21, Ls. 17-21.) The district court followed the plea agreement

and imposed the agreed-upon sentence of 13 months fixed. (R., pp. 49-50.) Moen filed a notice of appeal timely from the judgment of conviction. (R., pp. 54-57.)

“Mindful that the parties agreed to the sentence imposed pursuant to the terms of the plea agreement,” Moen nevertheless asserts his sentence is excessive because he accepted responsibility by pleading guilty to the instant offense. (Appellant’s brief, pp. 2-4.) Moen’s claim of an abuse of sentencing discretion is barred by the doctrine of invited error

A party is estopped, under the doctrine of invited error, from complaining that a ruling or action of the trial court that the party invited, consented to or acquiesced in was error. State v. Godwin, 164 Idaho 903, 925, 436 P.3d 1252, 1274 (2019) (citations omitted); State v. Castrejon, 163 Idaho 19, 21, 407 P.3d 606, 608 (Ct. App. 2017) (citations omitted). This doctrine applies to sentencing decisions as well as to rulings during trial. Castrejon, 163 Idaho at 21, 407 P.3d at 608. The purpose of the invited error doctrine is to prevent a party who caused or played an important role in prompting a trial court to take a certain action from later challenging that action on appeal. Id. at 22, 407 P.3d at 609 (citing State v. Blake, 133 Idaho 237, 240, 985 P.2d 117, 120 (1999)).

On appeal, Moen acknowledges that “the parties agreed to the sentence” that was imposed in this case. (Appellant’s brief, pp. 1-3.) Because Moen received the very sentence to which he agreed, he cannot claim on appeal that the sentence is excessive. Therefore, Moen’s claim of an abuse of sentencing discretion is barred by the doctrine of invited error and Moen’s sentence should be affirmed.

Conclusion

The state respectfully requests this Court to affirm Moen's conviction and sentence.

DATED this 20th day of February, 2020.

/s/ Kenneth K. Jorgensen
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VICTORIA RUTLEDGE
Paralegal

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 20th day of February, 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:

SALLY J. COOLEY
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