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ERIC D. FREDERICKSEN
State Appellate Public Defender
I.S.B. #6555

BRIAN R. DICKSON
Deputy State Appellate Public Defender
I.S.B. #8701
322 E. Front Street, Suite 570
Boise, Idaho 83702
Phone: (208) 334-2712
Fax: (208) 334-2985
E-mail: documents@sapd.state.id.us

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 47562-2019
Plaintiff-Respondent,)	
)	BOUNDARY COUNTY NO. CR11-19-115
v.)	
)	
WILLIAM R. DIXON,)	APPELLANT'S BRIEF
)	
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

William Dixon contends the district court abused its discretion by imposing an excessive sentence in this case. As such, this Court should reduce his sentence as it deems appropriate, or alternatively, remand this case for a new sentencing hearing.

Statement of the Facts & Course of Proceedings

Pursuant to a plea agreement, Mr. Dixon entered an *Alford* plea¹ to possession of methamphetamine and possession of paraphernalia. (R., p.42.) In exchange the State agreed to dismiss a sentencing enhancement. (R., p.42.) There was no agreement as to the

¹ *North Carolina v. Alford*, 400 U.S. 25 (1970).

recommendations of the underlying sentence, but the State did agree to recommend the district court retain jurisdiction in certain circumstances. (R., p.42.) Those circumstances were met, and the State did, in fact, recommend a period of retained jurisdiction with an underlying sentence of five years, with two years fixed. (See Tr., p.8, Ls.8-10, p.19, Ls.22-23.)²

The presentence evaluation (PSI) also recommended a period of retained jurisdiction. (Conf. Exh., p.16.) The GAIN-I evaluation recommended Mr. Dixon participate in an outpatient treatment program. (Conf. Exh., p.28.) Mr. Dixon did not believe another substance abuse program was particularly necessary at this point in time, but was amenable to participating in one if it would help prove to the district court that he could properly manage his substance abuse issues. (Conf. Exh., p.13.)

At the sentencing hearing, defense counsel notified the district court that Mr. Dixon had been able to line up a job and a place to live. (Tr., p.20, Ls.20-23.) Mr. Dixon added that he had the support of his family to help him succeed in that regard. (Tr., p.23, Ls.2-7.) He also accepted responsibility for his actions. (Tr., p.22, Ls.18-22.) As a result, defense counsel recommended the district court suspend Mr. Dixon's sentence for a period of probation. (Tr., p.21, L.24 - p.22, L.2.) He did not make any specific recommendations as to the length of the underlying sentence. (*See generally* Tr.)

The district court ultimately imposed a sentence of four years, with two years fixed, and retained jurisdiction.³ (Tr., p.24, Ls.4-6.) It explained that Mr. Dixon needed more time to “think, to get your life in order, to make sure you’re clean” before being released back into the

² The two transcripts in this case are provided in the electronic document “Appeal Transcripts 12-26-2019.” However, they are not consecutively paginated. Therefore, to avoid confusion, citations to “Tr.” use the electronic page number instead of the transcript page number.

³ The district court ordered credit for time served on the paraphernalia charge. (Tr., p.25, Ls.1-6.)

community. (Tr., p.24, Ls.7-8.) In making that decision, it noted the fact that Mr. Dixon had failed to appear at the time initially set for the sentencing hearing. (Tr., p.23, Ls.22-25.) Mr. Dixon filed a notice of appeal timely from the judgment of conviction. (R., pp.85, 93.)

ISSUE

Whether the district court abused its discretion by imposing an excessive sentence on Mr. Dixon.

ARGUMENT

The District Court Abused Its Discretion By Imposing An Excessive Sentence On Mr. Dixon

Sentencing decisions are committed to the district court's discretion. *State v. Reinke*, 103 Idaho 771, 771 (Ct. App. 1982). Where a defendant contends that the sentencing court imposed an excessively harsh sentence, the appellate court will conduct 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. *See id.* at 772. Accordingly, in order to show an abuse of discretion in the district court's sentencing decision, he must show that, in light of the governing criteria, the sentence is excessive considering any view of the facts. *State v. Jackson*, 130 Idaho 293, 294 (1997); *see Lunneborg v. My Fun Life*, 163 Idaho 856, 863-64 (2018) (articulating the standard for reviewing whether the district court abused its discretion). The governing criteria, or sentencing objectives, are: (1) protection of society; (2) deterrence of the individual and the public generally; (3) the possibility of rehabilitation; and (4) punishment or retribution for wrongdoing. *State v. Charboneau*, 124 Idaho 497, 500 (1993).

The protection of society is the primary objective the court should consider. *Id.* The Idaho Supreme Court has indicated that rehabilitation is usually the first means the district court should consider to achieve that goal. *See State v. McCoy*, 94 Idaho 236, 240 (1971), *superseded*

on other grounds as stated in *State v. Theil*, 158 Idaho 103 (2015); accord *State v. Bickhart*, 164 Idaho 204, 206 (Ct. App. 2018) (noting the preference identified in *McCoy* does not preclude a sentence of incarceration, if that is ultimately the best method to achieve the goals of sentencing). In other words, while the district court may place significant weight on one of the goals of sentencing, that does not mean it can ignore mitigating factors speaking to one of the other goals as being insignificant or unimportant. See *State v. Knighton*, 143 Idaho 318, 320 (2006) (noting that the failure to sufficiently consider various mitigating factors has resulted in abuses of sentencing discretion in several cases).

In this case, Mr. Dixon accepted responsibility for his actions. (Tr., p.22, Ls.18-22.) Acknowledgment of guilt and acceptance of responsibility by the defendant are critical first steps toward rehabilitation. See *State v. Kellis*, 148 Idaho 812, 815 (Ct. App. 2010). Additionally, he had been able to find housing and a job since being arrested in this case. (Tr., p.20, Ls.20-23.) He also had support of his family. (Tr., p.23, Ls.2-7.) Both of those factors further demonstrate his potential for rehabilitation, particularly in the community. See *State v. Shideler*, 103 Idaho 593, 595 (1982) (reducing sentence because the district court did not sufficiently consider the mitigating factors in that case, which included the support the defendant had from his family and his employer).

As such, a sufficient consideration of all the relevant facts demonstrates a sentence suspended for a term of probation, or at least, a shorter underlying sentence, would have best served all the goals of sentencing. Therefore, the district court abused its discretion by not sufficiently considering those factors and retaining jurisdiction instead.

CONCLUSION

Mr. Dixon 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 12th day of May, 2020.

/s/ Brian R. Dickson
BRIAN R. DICKSON
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of May, 2020, I caused a true and correct copy of the foregoing APPELLANT’S BRIEF, to be served as follows:

KENNETH K. JORGENSEN
DEPUTY ATTORNEY GENERAL
E-Service: ecf@ag.idaho.gov

/s/ Evan A. Smith
EVAN A. SMITH
Administrative Assistant

BRD/eas