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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 47821-2020
Plaintiff-Respondent,)	
)	Ada County Case No.
v.)	CR01-19-48244
)	
JAMES EDWARD STEELMAN,)	
)	RESPONDENT'S BRIEF
Defendant-Appellant.)	
_____)	

ISSUE

Has Steelman failed to establish that the district court abused its discretion by imposing a unified sentence of six years, with two years fixed, upon his guilty plea to possession of methamphetamine?

ARGUMENT

Stelman Has Failed To Establish That The District Court Abused Its Sentencing Discretion

A. Introduction

While he was on parole “for drug offense(s), aid and abet, and aggravated assault,” Steelman drove while under the influence of drugs, and officers stopped him for “weaving back

and forth” on the roadway and failing to stop before entering a crosswalk. (Conf. Docs., pp. 10, 39, 44.¹) Officers noted that Steelman smelled of marijuana, he had “fresh hypodermic injection sights” on his arm, and he displayed multiple signs of being under the influence of drugs. (Conf. Docs., pp. 10, 39, 42.) Steelman “admitted to smoking marijuana earlier in the day and injecting methamphetamine several days ago.” (Conf. Docs., p. 10.) Officers conducted field sobriety tests and “a certified Drug Abuse Recognition Expert confirmed ... Steelman was under the influence of marijuana.” (Conf. Docs., pp. 40-42.) Upon searching Steelman’s vehicle, officers found a “metal pipe containing a burnt marijuana in the pocket behind the front passenger seat,” a hypodermic syringe in the center console, and a backpack in the back seat containing “school materials with Steelman’s name,” two hypodermic needles, and a “baggy with approximately 2.8 grams of a white crystalline substance” that tested presumptive positive for methamphetamine. (Conf. Docs., pp. 10, 40-41.) Steelman was transported to the Ada County Jail, where he signed a consent form for a blood draw; he tested positive for amphetamine, methamphetamine, and Carboxy THC. (Conf. Docs., pp. 41, 61, 64.)

The state charged Steelman with possession of methamphetamine, possession of drug paraphernalia, and misdemeanor DUI. (R., pp. 13-14.) Pursuant to a plea agreement, Steelman pled guilty to possession of methamphetamine and misdemeanor DUI, and the state dismissed the paraphernalia charge and agreed to recommend a unified sentence of seven years, with two years fixed. (R., pp. 28-30.) The district court imposed a unified sentence of six years, with two years fixed, for possession of methamphetamine, and a concurrent 180-day sentence for the DUI.

¹ “Conf. Docs.” refers to the 73-page electronic file “Appeal Confidential Documents Record.pdf.”

(R., pp. 33-38.) Steelman filed a notice of appeal timely from the judgment of conviction. (R., pp. 45-47.)

Steeleman asserts his sentence for possession of methamphetamine is excessive in light of his “desire to address his mental health and substance abuse issues,” his acceptance of responsibility, and “the gains [he] was otherwise making while on parole.” (Appellant’s brief, pp. 3-8.) The record supports the sentence imposed.

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

Application of these legal standards to the facts of this case shows no abuse of discretion. First, the district court applied the correct legal standards. (1/22/20 Tr., p. 21, L. 24 – p. 22, L. 8.) It noted that the instant offense was Steelman's sixth felony conviction and that Steelman's parole officer recommended imprisonment. (1/22/20 Tr., p. 24, L. 25 – p. 25, L. 10.) The court also noted that Steelman had previously been afforded opportunities for treatment and programming while on community supervision, while in the retained jurisdiction program, and while incarcerated in the penitentiary, yet he "still ha[s] thinking errors that are leading to additional criminal activity" and, in this case, he committed "a DUI putting the community at risk." (1/22/20 Tr., p. 22, Ls. 20-23; p. 23, Ls. 16-22; p. 24, Ls. 9-16; p. 25, Ls. 7-17.) The district court found that probation was not appropriate in this case and it imposed a unified sentence of six years, with two years fixed. (1/22/20 Tr., p. 25, Ls. 13-20.) The court advised, "The two years fixed sentence is in consideration of the fact that I believe the fixed portion of sentences need to increase." (1/22/20 Tr., p. 26, Ls. 17-19.) "[W]hen you get to your sixth felony, two years of incarceration, even if it is related to the use of drugs, is appropriate based on the Toohill sentencing factors and the rehabilitation that has previously been provided to the defendant." (1/22/20 Tr., p. 26, Ls. 19-24.)

The district court's decision is supported by the record. Steelman has a long history of substance abuse and criminal offending. His criminal record "began as a juvenile," when he was adjudicated for reckless endangerment. (PSI, p. 24.²) He began using illegal drugs at [REDACTED] and, even after participating in substance abuse treatment, he reported "daily use" of marijuana

² PSI page numbers correspond with the page numbers of the electronic file "CR0118-3998 PSI Judge Hoagland.pdf."

and methamphetamine. (PSI, p. 28.) Between 2012 and 2019, Steelman racked up five separate convictions for felony possession of a controlled substance, as well as convictions for possession of marijuana, aggravated assault, theft of rental/leased property, and making false/misleading statements to a public servant. (PSI, pp. 23-24; Conf. Docs., pp. 20-23, 26.) He has previously been afforded numerous opportunities on community supervision; however, he repeatedly violated the conditions of community supervision by continuing to use methamphetamine and marijuana, failing to report for supervision and drug testing, failing to attend treatment, and committing new crimes. (PSI, pp. 23-25; Conf. Docs., pp. 21-22; 1/22/20 Tr., p. 20, Ls. 13-22; p. 22, L. 23 – p. 23, L. 1.) Steelman’s former probation officer reported that Steelman “has an extensive drug history” and admitted to “selling drugs while in Washington,” and that “it appeared he was not interested in staying away from the drug lifestyle.” (PSI, pp. 24-25.) The 2016 presentence investigator likewise stated that Steelman’s criminal record “shows a history of non-compliance” and, “Despite numerous opportunities for rehabilitation, he has chosen to persist with criminal behavior and substance abuse.” (PSI, p. 32.)

In 2017, Steelman completed the “Cognitive-Behavioral Interventions for Substance Abuse” rider program and was again placed on probation, but he again violated his probation and was consequently incarcerated in the penitentiary. (PSI, p. 3; 1/22/20 Tr., p. 22, L. 23 – p. 23, L. 20.) Steelman was later granted parole, and he resumed his use of marijuana within a month of his release on parole. (Conf. Docs., p. 73; 1/22/20 Tr., p. 11, Ls. 12-13.) He “was only out three months” (1/22/20 Tr., p. 11, Ls. 12-13) when he committed the instant offense in November 2019, during which he endangered the community by driving while under the influence of drugs, he admitted that he had used marijuana that day and that he had injected methamphetamine a few days earlier, and he was found in possession of methamphetamine and drug paraphernalia (Conf.

Docs., pp. 10, 73). Steelman’s sentence is appropriate in light of his ongoing criminal behavior and illegal drug use, his failure to rehabilitate or be deterred despite prior treatment opportunities and legal sanctions, and the danger he presents to the community.

On appeal, Steelman argues that his sentence is excessive because, during the three months that he was on parole, he worked and paid his fines, attended school, completed most of an aftercare program before he was discharged due to lack of attendance, and he had scheduled a mental health appointment to obtain a prescription for Adderall/ADHD medication when he decided to use the methamphetamine that was “given to him as a thank you” (1/22/20 Tr., p. 22, Ls. 15-17) “to help him write two final papers ... before he got onto his script” (Appellant’s brief, pp. 4-8). At sentencing, the district court specifically acknowledged and gave Steelman “some credit” for “doing some things right when [he was] released on parole,” including participating in treatment, “going to school,” working, and paying “the fine in Judge Hoagland’s cases.” (1/22/20 Tr., p. 22, Ls. 11-13; p. 23, Ls. 20-23; p. 24, Ls. 17-21.) The court noted, however, “I can’t ignore everything else. ... [B]ecause your conduct and how you have addressed problems when they have arisen in your life are not correct. So you still hav[e] thinking errors that are leading to additional criminal activity,” and, “[I]t wasn’t just those drugs that were given to you as a thank you, it was marijuana. You had been injecting meth. ... It is clear that it was way more than you described.” (1/22/20 Tr., p. 22, Ls. 15-19; p. 24, Ls. 11-16.) Additionally, the court found that Steelman’s decision to drive while under the influence of drugs was “significant,” as “you’re putting people in danger when you drive in the community under the influence of alcohol or under the influence of drugs.” (1/22/20 Tr., p. 22, Ls. 15-19; p. 24, Ls. 1-7.) The district court considered the mitigating factors and concluded, “[Y]ou’re doing some things right, but you are not doing enough of it right for me to feel comfortable that you are

amenable to supervision.” (1/22/20 Tr., p. 24, Ls. 21-24.) Steelman’s arguments do not show that the district court abused its discretion, particularly in light of his ongoing substance abuse and criminal behavior, his failure to rehabilitate or to complete treatment while in the community, and the risk he poses to society.

CONCLUSION

The state respectfully requests this Court to affirm Steelman’s conviction and sentence.

DATED this 24th day of August, 2020.

/s/ Kenneth K. Jorgensen
KENNETH K. JORGENSEN
Deputy Attorney General

VICTORIA RUTLEDGE
Paralegal

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 24th day of August, 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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