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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 47851-2020
Plaintiff-Respondent,)	
)	KOOTENAI COUNTY NO. CR28-19-2299
v.)	
)	
AARON ARTHUR DECHAND,)	APPELLANT’S BRIEF
)	
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Aaron Dechand pleaded guilty to grand theft and was sentenced to a unified term of 14 years, with four years fixed, and the district court retained jurisdiction. Mr. Dechand asserts that the district court abused its discretion first by imposing an excessive underlying term, and then later by relinquishing its jurisdiction, in light of the mitigating factors that exist in this case.

Statement of the Facts & Course of Proceedings

In January of 2019, while high on methamphetamine, Mr. Dechand stole an unoccupied vehicle that its owner had left running while she went inside a daycare center to pick up her

child. (PSI, pp.4-6.) Mr. Dechand drove the vehicle approximately five blocks, parked it in an alleyway behind an unoccupied residence, and took a purse, a laptop, and two phones. (PSI, p.6.) A few weeks later, the officer investigating the theft suspected Mr. Dechand may have been involved and interviewed him at the Kootenai County jail¹; when asked about the theft, Mr. Dechand's "first response to this was 'You guys haven't picked it up yet?'" (R., pp.11-21.) Mr. Dechand then drew a map for the officer showing him exactly where he had left the vehicle, which was ultimately recovered by the police. (R., pp.21-22.)

The State filed a complaint charging Mr. Dechand with grand theft and alleging he was a persistent violator. (R., pp.7-8.) Mr. Dechand waived his right to a preliminary hearing and was bound over into the district court, and the State filed an information charging him with grand theft. (R., pp.28-31.) Mr. Dechand pleaded guilty to grand theft as alleged in an amended information; in exchange, the State agreed to dismiss a separate case,² to not pursue the persistent violator enhancement, and to ask for "2 years fixed open indeterminate." (R., pp.32-37.) During the sentencing hearing, the State asked the district court to execute a unified term of ten years, with three years fixed³ (Tr. p.9, Ls.5-7), while Mr. Dechand asked the court to retain jurisdiction, and to not exceed the State's recommendation as an underlying sentence (Tr., p.11, Ls.11-15). The district court sentenced Mr. Dechand to a unified term of 14 years, with four years fixed, and retained jurisdiction. (R., pp.45-46; Tr., p.15, Ls.8-15.)

¹ Although it is not entirely clear from the record, it appears that Mr. Dechand was in jail because he had been charged with other theft related crimes in Kootenai County case no. CR28-19-1962 – a case that was eventually dismissed through the plea bargain entered in this case. (R., pp.32-34.)

² The amended information added the victims originally named in the case dismissed as part of the plea agreement.

³ Mr. Dechand did not object to the State's apparent breach of the plea agreement.

At the rider reviewing hearing, the State again asked the district court to execute Mr. Dechand's sentence (Tr., p.22, Ls.4-8), while Mr. Dechand asked the court to place him on probation (Tr., p.22, L.25 – p.23, L.17). Although the Department of Correction also recommended Mr. Dechand be placed on probation (PSI, pp.93-112), the district court relinquished jurisdiction and executed Mr. Dechand's sentence (R., pp.69-71; Tr., p.24, Ls.22-25). Mr. Dechand filed a timely Notice of Appeal.⁴ (R., pp.75-78.)

ISSUES

- I. Did the district court abuse its discretion when it imposed upon Mr. Dechand an underlying unified term of 14 years, with four years fixed, in light of the mitigating factors in his case?
- II. Did the district court abuse its discretion by relinquishing jurisdiction after Mr. Dechand successfully completed his rider?

ARGUMENT

I.

The District Court Abused Its Discretion When It Imposed Upon Mr. Dechand An Underlying Unified Term Of 14 Years, With Four Years Fixed, In Light Of The Mitigating Factors In His Case

Mr. Dechand asserts that, given any view of the facts, his unified sentence of 14 years, with four years fixed, is excessive. Where a defendant contends that the sentencing court imposed an excessively harsh sentence, the appellate court will conduct an independent review of the record considering the nature of the offense, the character of the offender, and the protection of the public interest. The governing criteria or objectives of criminal punishment are:

⁴ Mr. Dechand also filed a timely Rule 35 motion asking the court either to place him on probation or reduce his sentence. (R., pp.64-66, 72-74.) Documents available via iCourt indicate that the district court denied Mr. Dechand's Rule 35 motion. Mr. Dechand does not assert error in the district court's denial of his Rule 35 motion in this appeal.

(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.

Although Mr. Dechand has used alcohol and other controlled substances in the past, his primary problem in life is his addiction to methamphetamine. (PSI, pp.20-22.) Mr. Dechand started using meth when he was 15, and he recognizes that it has “caused problems for him to include, *loss of money, jobs, self-respect, trust,* and ruined his life.” (PSI, p.21.)⁵ While not blaming his criminal behavior on his addiction, Mr. Dechand recognized that he is a different person when he is under the influence. He told the PSI writer,

The reason behind my actions are due to the fact of my drug addiction to Meth. I am not proud of it nor [do I] glorify it. At the time I did not think about the consequences or all of the people I would affect. Meth basically turns my rational thinking into irrational.

(PSI, p.6.) When asked about how he feels about having committed his crimes, Mr. Dechand stated, “I feel horrible. I impacted someone[’]s life in a negative way.” (PSI, p.6.) Mr. Dechand recognizes that he needs substance abuse treatment and expressed a desire to complete a program without any interference from other obligations. (PSI, pp.21-22.)

In addition to immediately telling the investigating officer where they could find the vehicle he stole, even before they had solid evidence linking him to the crime (R., p.21-22), Mr. Dechand expressed his remorse, when he stated during the sentencing hearing that he was sorry for his actions, and recognized the emotional and financial hardship he had put the victim through. (Tr., p.12, Ls.4-12.) He also apologized to the other victims of his criminal actions, and he recognized that the choices he made have brought hardships upon many people throughout the years. (Tr., p.12, L.12 – p.13, L.1.) Mr. Dechand ended his allocution by stating,

⁵ It appears the PSI writer italicized Mr. Dechand’s statements, rather than using quotation marks.

“It’s just – they’re horrible things. I’m disgusted by it. I’m embarrassed to even be sitting in front of you, and once again, I just want to thank everybody here for putting this together and finalizing this today and, uh, thank you. (Tr., p.14, Ls.3-7.)

Idaho courts recognize that substance abuse and the willingness to seek treatment, coupled with acceptance of responsibility and remorse for one’s actions, are all mitigating factors that should counsel a court to impose a less severe sentence. *See State v. Nice*, 103 Idaho 89 (1982); *State v. Alberts*, 121 Idaho 204 (Ct. App. 1991); *State v. Sanchez*, 117 Idaho 51 (Ct. App. 1990). In light of the mitigating factors that exist in this case, Mr. Dechand asserts that the district court abused its discretion by imposing an excessive underlying sentence.

II.

The District Court Abused Its Discretion By Relinquishing Jurisdiction Over Mr. Dechand, After He Successfully Completed His Rider

At the conclusion of a period of retained jurisdiction, the decision to place a defendant on probation or to instead relinquish jurisdiction is left to the sound discretion of the district court.

“The main issue” for Mr. Dechand when he was on his rider was “his desire to help others” (PSI, p.95.) Program facilitators noted that in focusing on helping other people get through their programing, Mr. Dechand did not spend enough time working on his own issues. (PSI, p.95.) Still, Mr. Dechand showed a desire and willingness to participate in treatment and he completed all of the programs he had been assigned. (PSI, pp.93-100.) Mr. Dechand was not a disciplinary problem, receiving only one verbal warning for working out during an

unauthorized time, but he also received multiple “Positive Affirmation Tokens.” (PSI, p.95.) His positive achievements resulted in a recommendation for probation.⁶ (PSI, p.93.)

While it is well-established that the district court is not required to follow the recommendation for probation by the Department of Correction, Mr. Dechand’s performance in the Rider program demonstrates a genuine willingness to change. Mr. Dechand asserts that the district court abused its discretion by relinquishing jurisdiction, instead of placing him on probation.

CONCLUSION

Mr. Dechand respectfully requests that this Court remand his case to the district court with instructions that it place him on probation, or to reduce Mr. Dechand’s sentence to a unified term of ten years, with three years fixed.

DATED this 24th day of August, 2020.

/s/ Jason C. Pintler
JASON C. PINTLER
Deputy State Appellate Public Defender

⁶ After the Department of Correction sent its January 16, 2020 report recommending Mr. Dechand be placed on probation, but before the jurisdictional review hearing held on February 19, 2020, Warden Krieger wrote a letter of appreciation to Mr. Dechand for his efforts during a medical emergency that took place at the institution. (R., p.112.) Warden Krieger stated, “Your actions were a crucial influence on the positive outcome that saved another inmate[’]s life. Thank you for your actions and humanity.” (R., p.112.) It appears the district court was not informed of Mr. Dechand’s commendation until after the court relinquished jurisdiction.

CERTIFICATE OF SERVICE

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

JCP/eas