

LAWRENCE G. WASDEN
Attorney General
State of Idaho

COLLEEN D. ZAHN
Deputy Attorney General
Chief, Criminal Law Division

KENNETH K. JORGENSEN
Deputy Attorney General
P.O. Box 83720
Boise, Idaho 83720-0010
(208) 334-4534
Email: ecf@ag.idaho.gov

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 47851-2020
Plaintiff-Respondent,)	
)	
v.)	Kootenai County Case No.
)	CR28-19-2299
)	
AARON ARTHUR DECHAND,)	
)	RESPONDENT’S BRIEF
Defendant-Appellant.)	
_____)	

Has Aaron Arthur Dechand failed to show that the district court abused its discretion by sentencing him to fourteen years, with four years determinate and retaining jurisdiction for grand theft, then subsequently relinquishing jurisdiction and executing the underlying sentence?

ARGUMENT

Dechand Has Failed To Show That The District Court Abused Its Discretion

A. Introduction

In 2019, Aaron Arthur Dechand stole Jessica Parsons’ vehicle. (PSI, p. 4.) Dechand drove the vehicle a few blocks, took Jessica’s purse, laptop and two iPhone 7s, and then left the vehicle

in an alley. (PSI, p. 4.) Dechand admitted to giving away one of the iPhones, but did not know the status of Jessica's laptop. (PSI, p. 4.) The state filed a complaint charging Dechand with one count of felony grand theft and a persistent violator enhancement. (R., pp. 7-8.) Dechand pleaded guilty to grand theft and the state dismissed the enhancement, and the district court sentenced him to fourteen years, with four years determinate and retained jurisdiction. (R., pp. 35-37, 45-46.)

Following Dechand's period of retained jurisdiction, the district court relinquished jurisdiction and executed the underlying sentence of fourteen years, with four years determinate and credit for 379 days served. (R., pp. 69-70.) Dechand then filed a timely appeal. (R., pp. 75-77.)

On appeal, Dechand argues that "the district court abused its discretion first by imposing an excessive underlying term, and then later by relinquishing its jurisdiction." (Appellant's brief, p. 1.) Dechand has failed to show that the district court abused its discretion by sentencing him to fourteen years, with four years determinate and retaining jurisdiction, then subsequently relinquishing jurisdiction.

B. Standard Of Review

"Appellate review of a sentence is based on an abuse of discretion standard. 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, 451, 447 P.3d 895, 899 (2019) (internal quotations and citations omitted). 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 a given case. Id. at 454, 447 P.3d at 902. "A sentence fixed within the limits prescribed by the statute will ordinarily not be considered an abuse of discretion." Id. (internal

quotations omitted). “In deference to the trial judge, this Court will not substitute its view of a reasonable sentence where reasonable minds might differ.” State v. Matthews, 164 Idaho 605, 608, 434 P.3d 209, 212 (2019) (citation omitted).

The decision to place a defendant on probation is a matter within the sound discretion of the district court and will not be overturned on appeal absent an abuse of that discretion. State v. Reed, 163 Idaho 681, 684, 417 P.3d 1007, 1010 (Ct. App. 2018) (citations omitted). Rehabilitation and public safety are dual goals of probation. State v. Le Veque, 164 Idaho 110, 114, 426 P.3d 461, 465 (2018). A decision to deny probation will not be deemed an abuse of discretion if it is consistent with the criteria articulated in I.C. § 19-2521. State v. Reber, 138 Idaho 275, 278, 61 P.3d 632, 635 (Ct. App. 2002) (citing State v. Toohill, 103 Idaho 565, 567, 650 P.2d 707, 709 (Ct. App. 1982)).

C. Dechand Has Shown No Abuse Of The District Court’s Discretion

The sentence imposed is within the statutory limits of I.C. § 18-2408(2)(a). The record shows the district court perceived its discretion, employed the correct legal standards to the issue before it, and acted reasonably and within the scope of its discretion.

At the sentencing hearing, the district court stated that “the underlying facts of this crime are pretty deplorable, and obviously [Dechand has] impacted this lady in a very negative way.” (06/13/2019 Tr., p. 17, L. 21 – p. 18, L. 1.) The district court stated that “just the cases where [Dechand was] sentenced is shocking, and [he’s] affected every person just as badly in those cases as [he has] this lady or photographs of her kids in this case.” (06/13/2019 Tr., p. 18, Ls. 6-11.) The district court retained jurisdiction to ensure Dechand receives “programming up front” in order to “protect the public better,” but did not “plan on putting [Dechand] on probation at the end of that rider.” (06/13/2019 Tr., p. 15, Ls. 15-24.) The district court stated that the only chance it

“would consider probation at the end of [his] retained jurisdiction is if [Dechand is] willing to do a year-long faith-based treatment program,” because Dechand “appear[s] to have a faith basis in [his] life,” but the district court didn’t “know how a person with that faith basis goes out and is as prolific a [thief] as [Dechand is].” (06/13/2019 Tr., p. 15, L. 25 – p. 16, L. 8.) The district court stated that Dechand is “a career thief. All [he did] the last twenty years [was] steal and all [he did] is ruin lives,” so the district court was “not optimistic [at that time] about putting [Dechand] on probation at the end of [his] rider.” (06/13/2019 Tr., p. 16, Ls. 9-13.)

At the jurisdictional review hearing, the district court stated that Dechand is “constantly focused on others. There’s some good to that, but [he’s] there to focus on [himself] and the problems that [he has].” (02/19/2020 Tr., p. 25, Ls. 15-17.) The district court stated that focusing on others “is a detriment at this particular point in time given the fact especially that [Dechand didn’t] come back with a plan for ... some sort of structured living environment or faith-based rehabilitation program.” (02/19/2020 Tr., p. 25, Ls. 18-22.) The district court “put that in place that [Dechand] have a faith-based or a structured-base rehabilitation program because of [his] very extensive criminal record, and then it was puzzling to [the district court] in [Dechand’s] report that [he] really balked at the twelve-step program.” (02/19/2020 Tr., p. 25, L. 22 – p. 26, L. 2.) The district court determined that it “can’t in good conscience give [Dechand] the benefit of probation.” (02/19/2020 Tr., p. 26, Ls. 11-12.)

Dechand argues that the mitigating factors—substance abuse issues, desire for treatment, remorse and acceptance of responsibility—show that “the district court abused its discretion by imposing an excessive underlying sentence.” (Appellant’s brief, pp. 3-5.) Additionally, Dechand argues that his “performance in the Rider program demonstrates a genuine willingness to change,” and that “the district court abused its discretion by relinquishing jurisdiction, instead of placing

him on probation.” (Appellant’s brief, p. 6.) Dechand’s arguments do not show an abuse of discretion.

Dechand’s LSI score is thirty, placing him in the moderate risk to reoffend category. (PSI, p. 24.) His extensive criminal history includes, but is not limited to, twenty convictions for theft, two convictions for attempting to elude, five convictions for possession of a stolen vehicle, and three convictions for possession of a controlled substance. (PSI, p. 6-15.) The presentence investigator stated that “[a]t the time of his arrest he was absconded from his Washington supervision after failing out of the DOSA program,” and that Dechand “did not appreciate the opportunity of probation awarded to him in Washington.” (PSI, p. 25.) The presentence investigator stated that “Dechand has not shown he is ready to be a productive member of society,” and recommended that Dechand “be sentenced to the physical custody of the Idaho Department of Correction.” (PSI, p. 25.) The presentence investigator determined that “Dechand could benefit from participation in rehabilitative programs and/or prosocial activities during a period of incarceration. This may help him to obtain the skills needed to live a crimefree life in the future, while protecting the community.” (PSI, p. 25.)

The victim in this case, Jessica Parsons, stated that Dechand’s crime “still haunts [her] and [she] will live with the experience for the rest of [her] life. [She is] always on edge now with [her] new vehicle and feel at anytime somebody may be lurking in the bushes at [her] son’s daycare to steal another vehicle.” (PSI, p. 5.) Jessica related that she “will never be free from the anxiety that this experience has caused for [her] and [her] family.” (PSI, p. 5.)

Given Dechand’s history of double digit felony convictions and failed probations, the district court generously granted Dechand a period of retained jurisdiction to ensure that he receive treatment up front despite Dechand’s absconding from supervision in Washington, followed by

the instant offense. Dechand was not a suitable candidate for probation. Dechand's criminal history shows that he is a career criminal, and the bulk of his convictions are crimes with victims. Dechand's criminal behavior causes great harm to the community, and his repeated theft shows that he does not have remorse for his criminal conduct. The sentence imposed provides proper punishment and deterrence to Dechand, and without a period of incarceration, there is an undue risk that Dechand will reoffend. Dechand has failed to show that the district court abused its discretion by sentencing him to fourteen years, with four years determinate and retaining jurisdiction, then subsequently relinquishing jurisdiction and executing the underlying sentence.

CONCLUSION

The state respectfully requests this Court to affirm the judgment of the district court.

DATED this 13th day of November, 2020.

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

ZACHARI S. HALLETT
Paralegal

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 13th day of November, 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:

JASON C. PINTLER
DEPUTY STATE APPELLATE PUBLIC DEFENDER
documents@sapd.state.id.us

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