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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	
	)	NO. 47878-2020
Plaintiff-Respondent,	)	
	)	Elmore County Case No. CR20-19-3028
v.	)	
	)	
RACHAEL ROSEMARIE PFEIFER,	)	
	)	RESPONDENT’S BRIEF
Defendant-Appellant.	)	
_____	)	

Has Rachael Rosemarie Pfeifer failed to show that the district court abused its sentencing discretion when it imposed sentences of five years with two years determinate upon her conviction for possession of methamphetamine?

ARGUMENT

Pfeifer Has Failed To Show That The District Court Abused Its Sentencing Discretion

A. Introduction

The state charged Pfeifer with possession of methamphetamine and aiding and abetting delivery of methamphetamine. (R., pp. 22-23.) She pled guilty to possession as part of a plea agreement whereby the state dismissed the other charge. (R., pp. 27-28; 12/2/19 Tr., p. 4, Ls. 8-

19; p. 11, Ls. 15-18.) The district court imposed a sentence of five years with two years determinate. (R., pp. 45-47; 2/24/20 Tr., p. 11, Ls. 6-11.) Pfeifer filed a timely notice of appeal. (R., pp. 49-51.)

On appeal Pfeiffer contends the district court “failed to give proper consideration to her admitted substance abuse problem and desire for treatment.” (Appellant’s brief, p. 4.) Review of the record and application of the relevant legal standards shows no abuse of discretion.

B. Standard Of Review

The length of a sentence is reviewed under an abuse of discretion standard considering the defendant’s entire sentence. State v. Oliver, 144 Idaho 722, 726, 170 P.3d 387, 391 (2007) (citing State v. Strand, 137 Idaho 457, 460, 50 P.3d 472, 475 (2002); State v. Huffman, 144 Idaho 201, 159 P.3d 838 (2007)). It is presumed that the fixed portion of the sentence will be the defendant’s probable term of confinement. Id. (citing State v. Trevino, 132 Idaho 888, 980 P.2d 552 (1999)). Where a sentence is within statutory limits, the appellant bears the burden of demonstrating that it is a clear abuse of discretion. State v. Baker, 136 Idaho 576, 577, 38 P.3d 614, 615 (2001) (citing State v. Lundquist, 134 Idaho 831, 11 P.3d 27 (2000)). In evaluating whether a lower court abused its discretion, the appellate court conducts a four-part inquiry, which asks “whether the trial court: (1) correctly perceived the issue as one of discretion; (2) acted within the outer boundaries of its discretion; (3) acted consistently with the legal standards applicable to the specific choices available to it; and (4) reached its decision by the exercise of reason.” State v. Herrera, 164 Idaho 261, 272, 429 P.3d 149, 160 (2018) (citing Lunneborg v. My Fun Life, 163 Idaho 856, 863, 421 P.3d 187, 194 (2018)).

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

To bear the burden of demonstrating an abuse of discretion, the appellant must establish that, under any reasonable view of the facts, the sentence was excessive. State v. Farwell, 144 Idaho 732, 736, 170 P.3d 397, 401 (2007). In determining whether the appellant met this burden, the court considers the entire sentence but, because the decision to release the defendant on parole is exclusively the province of the executive branch, presumes that the determinate portion will be the period of actual incarceration. State v. Bailey, 161 Idaho 887, 895, 392 P.3d 1228, 1236 (2017) (citing Oliver, 144 Idaho at 726, 170 P.3d at 391). To establish that the sentence was excessive, the appellant must demonstrate that reasonable minds could not conclude the sentence was appropriate to accomplish the sentencing goals of protecting society, deterrence, rehabilitation, and retribution. Farwell, 144 Idaho at 736, 170 P.3d at 401. A sentence is reasonable “if it appears necessary to accomplish the primary objective of protecting society and to achieve any or all of the related goals of deterrence, rehabilitation, or retribution.” Bailey, 161 Idaho at 895-96, 392 P.3d at 1236-37 (quoting State v. McIntosh, 160 Idaho 1, 8, 368 P.3d 621, 628 (2015)).

The district court applied the relevant legal standards, considering “the four goals of sentencing under Idaho law.” (2/24/20 Tr., p. 8, L. 18 – p. 9, L. 1.) The district court rejected probation (including drug court) as an option because it did “not believe at present that [Pfeifer had] the ability to be effectively supervised” and therefore found placing her in the community an “undue risk.” (2/24/20 Tr., p. 9, L. 8 – p. 10, L. 19.) In addition, the district court found, based on Pfeifer’s history, that treatment would be “most effectively provided” in an institution. (2/24/20 Tr., p. 10, L. 20 – p. 11, L. 5.)

The record supports the district court’s analysis. This was Pfeifer’s fourth felony conviction. (PSI, pp. 4, 11-16.) She had previously been on probation and parole and in mental

health court, and had done poorly in each. (PSI, pp. 4-5, 16-19.) The record “reflects [Pfeifer’s] movements into and through IDOC custody since November 2004.” (PSI, p. 4.) Pfeifer’s history supports the district court’s finding that she was not a good candidate for probation at the time of sentencing.

Pfeifer argues the district court “abused its discretion when it failed to provide her an opportunity to participate in drug court.” (Appellant’s brief, p. 5.) The district court specifically found, however, that drug court was not “appropriate” for Pfeifer, and Pfeifer was not appropriate for drug court, because the court had “serious concerns about how well [Pfeifer] would do” and about the risk she would present to others in the program “based on the nature of [her] criminal history and conduct.” (2/24/20 Tr., p. 9, L. 19 – p. 10, L. 1.) The district court was concerned that Pfeifer would not do well in drug court because she had previously failed in mental health court despite that court’s “greater detail of wraparound services.” (2/24/20 Tr., p. 10, Ls. 1-6.) It was also concerned that Pfeifer had not previously “made a serious effort at probation and parole.” (2/24/20 Tr., p. 10, Ls. 6-8.) When it looked at “the ful[l]ness” of Pfeifer’s “history” and “record” it did not “believe at present” that she could be “effectively supervised” and there was an “undue risk to have [her] in the community.” (2/24/20 Tr., p. 10, Ls. 14-19.) She would, the district court found, “commit additional crimes.” (2/24/20 Tr., p. 10, L. 19.)

The district court’s factual findings are not challenged on appeal, at least not directly. Pfeifer asserts the district court did not “properly consider” her substance abuse, her stated desire for treatment, her possible mental illness, and her asserted acceptance of responsibility. (Appellant’s brief, pp. 4-5.) Pfeifer does not address, however, the district court’s determination that she was an undue risk to the community and others in the drug court program and that

treatment in custody is a better option given her history. Because Pfeifer does not show error in the district court's analysis, she has failed to show an abuse of sentencing discretion.

CONCLUSION

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

DATED this 30th day of October, 2020.

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 30th day of October, 2020, served a true and correct copy of the foregoing 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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