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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	
	)	NOS. 47888-2020 & 47889-2020
Plaintiff-Respondent,	)	
	)	Ada County Case Nos.
v.	)	CR01-18-23629 & CR01-20-3242
	)	
AURELIO ARAMBULA, III,	)	
	)	RESPONDENT’S BRIEF
Defendant-Appellant.	)	
_____	)	

Has Arambula failed to show that the district court abused its sentencing discretion when it revoked probation on one conviction for possession of a controlled substance and imposed sentences of seven years with two years determinate upon his new conviction for possession of a controlled substance?

ARGUMENT

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

A. Introduction

The district court imposed a suspended sentence of seven years with two years determinate upon Arambula’s conviction for possession of a controlled substance and placed Arambula on

probation. (47888 R., pp. 88-93.) Arambula absconded probation about a month later, and was shortly thereafter arrested and charged with another possession of a controlled substance. (47888 R., pp. 101-07; 47889 R., pp. 12-13.) Arambula admitted violating his probation and pled guilty to the new charge. (47888 R., p. 121; 47889 R., p. 14.) The district court revoked probation on the first conviction and imposed a concurrent sentence of seven years with two determinate on the new conviction. (47888 R., pp. 127-29; 47889 R., pp. 31-33.) Arambula filed timely notices of appeal. (47888 R., pp. 133-34; 47889 R., pp. 40-41.)

On appeal Arambula asserts the district court abused its sentencing discretion by revoking probation and imposing a new concurrent sentence of seven years with two years determinate because of his addiction and “motivation for treatment.” (Appellant’s brief, pp. 3-7.) Arambula has shown 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)).

“Once a probation violation has been proven, the decision of whether to revoke probation is within the sound discretion of the court.” State v. Le Veque, 164 Idaho 110, 113, 426 P.3d 461, 464 (2018) (quotation marks omitted).

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. Arambula 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)).

“In determining whether to revoke probation, a court must examine whether the probation is achieving the goal of rehabilitation and is consistent with the protection of society.” State v. Morgan, 153 Idaho 618, 622, 288 P.3d 835, 839 (Ct. App. 2012).

In executing the first sentence and imposing the second, the district court recognized its discretion and applied the correct legal standards. (3/11/20 Tr., p. 24, Ls. 10-22.) The district court found that Arambula had an addiction, but would never successfully address it if he did not attend treatment. (3/11/20 Tr., p. 24, L. 23 – p. 25, L. 18.) The district court concluded retaining jurisdiction was not “appropriate.” (3/11/20 Tr., p. 25, Ls. 19-20.) The Court reasoned that serving two years before being eligible for parole was appropriate because a lesser sentence would “send the wrong message” for a fourth felony, because it would deter future conduct, and because it was necessary for Arambula to acquire rehabilitation skills necessary to be successful in the community. (3/11/20 Tr., p. 27, L. 22 – p. 28, L. 21.)

The record supports the district court’s exercise of discretion. This combined case addresses, respectively, Arambula’s third and fourth felony convictions. (PSI, pp. 60-65.) Since 2013 he has been the subject of extensive rehabilitation efforts, including retained jurisdiction and probation, which have had no discernable effect on his behavior. (PSI, pp. 65-66.) As set forth above, he was barely weeks into probation on his third felony when he absconded. The district court did not abuse its sentencing discretion.

Arambula argues the district court should have imposed a sentence with only one year determinate on the new conviction and retained jurisdiction because of his substance abuse issues and willingness to participate in treatment and programming. (Appellant’s brief, pp. 3-7.) A reading of the district court’s sentencing comments, however, shows that (with a nod to deterrence) the district court’s primary concern was rehabilitation through addressing Arambula’s addiction. (3/11/20 Tr., p. 24, L. 10 – p. 29, L. 13.) Unlike Arambula, however, the district court concluded that he could not be successful in the community but rather needed a period of incarceration for

treatment and programming to be effective. The record supports that analysis and conclusion, and Arambula has failed to show an abuse of discretion.

CONCLUSION

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

DATED this 18th day of November, 2020.

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 18th day of November, 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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KKJ/dd