

Uldaho Law

Digital Commons @ Uldaho Law

Not Reported

Idaho Supreme Court Records & Briefs

12-29-2020

State v. Sireech Appellant's Brief Dckt. 47953

Follow this and additional works at: https://digitalcommons.law.uidaho.edu/not_reported

Recommended Citation

"State v. Sireech Appellant's Brief Dckt. 47953" (2020). *Not Reported*. 6735.
https://digitalcommons.law.uidaho.edu/not_reported/6735

This Court Document is brought to you for free and open access by the Idaho Supreme Court Records & Briefs at Digital Commons @ Uldaho Law. It has been accepted for inclusion in Not Reported by an authorized administrator of Digital Commons @ Uldaho Law. For more information, please contact annablaine@uidaho.edu.

ERIC D. FREDERICKSEN
State Appellate Public Defender
I.S.B. #6555

JUSTIN M. CURTIS
Deputy State Appellate Public Defender
I.S.B. #6406
322 E. Front Street, Suite 570
Boise, Idaho 83702
Phone: (208) 334-2712
Fax: (208) 334-2985
E-mail: documents@sapd.state.id.us

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 47953-2020
Plaintiff-Respondent,)	
)	BINGHAM COUNTY NO. CR06-19-2466
v.)	
)	
JARED CHARLES SIREECH,)	APPELLANT'S BRIEF
)	
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Jared Charles Sireech appeals from the district court's order denying his Idaho Criminal Rule (*hereinafter*, Rule) 35 motion for reduction of sentence. Mindful of the fact that he did not present new information in support of the Rule 35 motion, he asserts that the district court abused its discretion by denying the motion.

Statement of the Facts & Course of Proceedings

On June 27, 2019, Idaho State Police Corporal Gallegos observed a vehicle traveling twenty miles per hour above the speed limit on Highway 91. (Presentence Investigation Report

(*hereinafter*, PSI), p.3.) He attempted to stop the vehicle, which picked up speed to approximately 120 miles per hour. (PSI, p.3.) Cpl. Gallegos eventually performed a PIT maneuver and stopped the vehicle. (PSI, p.3.) Cpl. Gallegos eventually caught up with the driver, Mr. Sireech, and smelled alcohol on him. (PSI, p.3.) Mr. Sireech provided a breath test of .161/.148. (PSI, p.3.)

Mr. Sireech was charged with eluding a peace officer, misdemeanor DUI, and resisting or obstructing officers. (R., p.33.) He pleaded guilty to eluding and DUI and the State agreed to recommend probation. (R., p.77.) The district court imposed sentences of five years, with three years fixed, for eluding, and six months for DUI. (R., p.92.) Mr. Sireech subsequently filed a Rule 35 motion, requesting that the court reduce the sentence on the eluding charge to two and one-half years, with one and one-half years fixed. (R., p.97.) Mr. Sireech did not provide any new information with the motion. (R., p.97.) The district court denied the motion. (R., p.101.) Mr. Sireech appealed from the order denying the Rule 35 motion. (R., p.106.)

ISSUE

Did the district court abuse its discretion when it denied Mr. Sireech's Rule 35 motion?

ARGUMENT

The District Court Abused Its Discretion When It Denied Mr. Sireech's Rule 35 Motion

An order denying a motion for reduction of a sentence under Rule 35 is reviewed for an abuse of discretion. *State v. Hillman*, 143 Idaho 295, 296 (Ct. App. 2006). If the sentence is found to be reasonable at the time of pronouncement, the defendant must then show that it is excessive in view of the additional information presented with the motion for reduction. *Id.*

While Mr. Sireech did not provide new information with his Rule 35 motion, at the time of sentencing he stated that he was speeding in order to get home because he had some family problems. (PSI, p.4.) He stated that “I feel sad [and] made because my mom and family need me out there.” (PSI, p.4.) Further, Mr. Sireech expressed remorse at the sentencing hearing when he addressed the court:

And I regret everything I did, and I’m sorry for the things – putting my life and others in jeopardy. And I also want the chance to be on probation, and that I really – I have been thinking a lot about myself in here that I have to be there for my mom for her remaining years, and she’s here in the courtroom to support me.

And I’m here to tell you that I’m sorry for the things I did, and I’m sorry for myself and that I – I think I’m ready for probation and to get out there and be on my own and stuff. And I got a job lined up, and everything that my attorney said is true, that I’m ready to step up and live in the community and support the community and be a good supporter to others instead of being that bad person and committing the crimes that I did.

(Tr., p.11, Ls.9-23.) Considering this information, Mr. Sireech respectfully submits that the district court abused its discretion by denying his Rule 35 motion for reduction of sentence.

CONCLUSION

Mr. Sireech respectfully requests that this Court reduce his sentence as it deems appropriate. Alternatively, he requests that his case be remanded to the district court for a hearing on his Rule 35 motion.

DATED this 29th day of December, 2020.

/s/ Justin M. Curtis
JUSTIN M. CURTIS
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of December, 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

JMC/eas