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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 48036-2020
Plaintiff-Respondent,)	
)	CASSIA COUNTY NO. CR16-19-5698
v.)	
)	
MECHELLA LYNN BOWLIN,)	APPELLANT'S BRIEF
)	
Defendant-Appellant.)	
_____)	

BRIEF OF APPELLANT

**APPEAL FROM THE DISTRICT COURT OF THE FIFTH JUDICIAL
DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE
COUNTY OF CASSIA**

HONORABLE MICHAEL P. TRIBE
District Judge

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STATEMENT OF THE CASE

Nature of the Case

Mechella L. Bowlin appeals from the district court's judgment of conviction for possession of a controlled substance. She argues the district court abused its discretion by denying her motion to withdraw her guilty plea. She also argues the district court abused its discretion by declining to place her on probation at sentencing.

Statement of Facts and Course of Proceedings

In July 2019, the State filed a criminal complaint alleging Ms. Bowlin committed the crime of possession of a controlled substance. (R., pp.8–9.) According to the presentence investigation report (“PSI”),¹ law enforcement found a baggie that tested positive for methamphetamine on the floor of the Mini-Cassia Criminal Justice Center. (PSI, pp.3–4; *see also* R., p.10.) Upon review of the surveillance video, law enforcement determined the baggie fell from Ms. Bowlin's person as she was adjusting her clothing. (PSI, p.3; R., p.10.) Ms. Bowlin was at the justice center to visit her boyfriend. (PSI, pp.3–4.)

After a preliminary hearing, the magistrate judge found probable cause for the offense and bound Ms. Bowlin over to district court. (R., pp.19, 21–22.) The State charged Ms. Bowlin by Information with possession of a controlled substance. (R., pp.24–25.) Ms. Bowlin pled not guilty. (R., p.37.) The district court scheduled a jury trial for early January 2020. (R., p.30.)

On the first day of trial, on January 8, Ms. Bowlin entered an *Alford*² plea to possession of a controlled substance, pursuant to a plea agreement with the State. (Tr. Vol. I,³ p.3, Ls.8–24,

¹ Citations to the PSI refer to the thirty-four page electronic document with the confidential exhibits.

² *North Carolina v. Alford*, 400 U.S. 25 (1970).

p.10, L.16–p.11, L.1, p.15, L.7–p.16, L.7.) The State agreed to recommend probation, with an underlying sentence of five years, with two years fixed. (Tr. Vol. I, p.3, Ls.17–21.)

On February 6, 2020, Ms. Bowlin moved to withdraw her guilty plea pursuant to Idaho Criminal Rule (I.C.R.) 33(c). (R., p.59.) On February 28, 2020, the PSI was prepared, and it was filed on March 2, 2020. (PSI, p.1.) The PSI recommended a period of retained jurisdiction (“a rider”). (PSI, p.14.)

On March 16, 2020, the district court held a hearing on Ms. Bowlin’s motion. (*See generally* Tr. Vol. II; R., p.66.) As the basis for her motion, her counsel stated:

Your Honor, my understanding is that Ms. Bowlin feels that she was placed under undue pressure to enter a guilty plea based upon the presence of the jury and that she feels that she was not adequately prepared to make that decision at that time and wishes to withdraw her guilty plea.

(Tr. Vol. II, p.4, Ls.16–21.) The State objected and argued this was not an adequate reason to withdraw her plea. (Tr. Vol. II, p.4, L.24–p.5, L.12.) Ms. Bowlin responded that she also wanted to withdraw her plea because she was not guilty. (Tr. Vol. II, p.6, Ls.7–8.) She asserted:

There are some discrepancies in the video. If you just watch the video, there’s people who disappear in the video. They’re there one minute; the next minute, poof, they’re gone.

I know for a fact, I have no doubt in my mind that I did not have any drugs on me that day. I have never been more sure of anything in my life. I have seizures, and when I’m put under pressure like that, I just – I’m going to make the quickest decision just to get out of the situation, and that’s exactly what happened that day. But I’ve told [my counsel] from day one about the video being wrong. I mean, there’s just a lot of things that are different in it.

³ There are three transcripts on appeal in one electronic document. Each transcript will be cited with reference to its internal pagination. Citations to “Tr. Vol. I” reference the entry of plea hearing, held on January 8, 2020 (pages 1 of 7 of overall document). Citations to “Tr. Vol. II” reference the motion to withdraw guilty plea hearing, held on March 16, 2020 (pages 8 to 13 of overall document). Citations to “Tr. Vol. III” reference the sentencing hearing, held on May 18, 2020 (pages 14 to 21 of overall document).

And the paperwork, the notary signed off on the 4th of March, and the crime didn't even supposedly happen until the 8th of April.⁴ There's just a lot of discrepancies in the case that I would like to show.

(Tr. Vol. II, p.6, L.8–p.7, L.2.) The district court orally ruled on her motion. (Tr. Vol. II, p.7, L.5–p.10, L.16.) First, the district court discussed the “just reason” standard and recognized that Ms. Bowlin filed her motion before the PSI. (Tr. Vol. II, p.7, L.5–p.9, L.5.) The district court summarized Ms. Bowlin's basis for the motion as “essentially that you were under duress or stressed the morning of trial and essentially regret making that decision, and now believe there's some issues that you want to have flushed out or reviewed and explored in front of a jury.” (Tr. Vol. II, p.9, Ls.5–10.) The district court discussed that it had reviewed the transcript of the entry of plea hearing, including its plea colloquy. (Tr. Vol. II, p.9, L.12–p.10, L.10.) The district court concluded:

And I understand that the morning of trial are stressful times. They're stressful times for the Court. They're stressful times for the lawyers, but at this time, I don't see a just reason to withdraw the plea, based on the cases I've cited, based on [I.C.R.] 33, so at this point, I'm going to deny the motion.

(Tr. Vol. II, p.8, Ls.11–16.) In April 2020, the district court entered an order denying the motion for the reasons stated on the record. (R., p.67.)

In May 2020, the district court held a sentencing hearing. (*See generally* Tr. Vol. III; R., p.76.) The State did not make an explicit recommendation and doubted whether Ms. Bowlin could comply with the terms of probation. (Tr. Vol. III, p.9, L.20–p.12, L.9.) Ms. Bowlin's counsel requested the district court follow the plea agreement and place her on probation. (Tr. Vol. II, p.12, L.18–p.13, L.4.) Ms. Bowlin stated again that she did not drop the baggie with

⁴ Ms. Bowlin was likely referring to the police officer's affidavit of probable cause. (R., pp.10–11.) The officer's affidavit states that the crime allegedly occurred on April 8, 2019, but the notary public states that the affidavit was subscribed and sworn on March 4, 2019. (R., pp.10–11.)

methamphetamine. (Tr. Vol. III, p.14, Ls.3–19.) She also informed the district court that she had successfully completed drug court in 2015 and had not used drugs. (Tr. Vol. III, p.14, Ls.3–19.) Consistent with the agreement, the district court sentenced Ms. Bowlin to five years, with two years fixed. (Tr. Vol. III, p.17, Ls.5–7.) However, the district court declined to follow the agreement for probation and, instead, retained jurisdiction. (Tr. Vol. III, p.18, Ls.18–21.) The district court entered a judgment of conviction, and Ms. Bowlin timely appealed. (R., pp.71–73, 77–78.)

ISSUES

- I. Did the district court abuse its discretion when it denied Ms. Bowlin's motion to withdraw her guilty plea?
- II. Did the district court abuse its discretion when it declined to suspend Ms. Bowlin's sentence and place her on probation?

ARGUMENT

I.

The District Court Abused Its Discretion When It Denied Ms. Bowlin's Motion To Withdraw Her Guilty Plea

A. Introduction

Ms. Bowlin argues the district court did not exercise reason and thus abused its discretion by denying her motion to withdraw her guilty plea. She submits she provided a just reason to withdraw her plea.

B. Standard Of Review

The Court reviews the district court's denial of a motion to withdraw a guilty plea for an abuse of discretion. *State v. Sunseri*, 165 Idaho 9, 13 (2018). The abuse of discretion standard examines whether the district 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." *Lunneborg v. My Fun Life*, 163 Idaho 856, 867 (2018).

C. The District Court Did Not Exercise Reason In Denying Ms. Bowlin's Motion Because She Had A Just Reason To Withdraw Her Plea

I.C.R. 33(c) governs motions to withdraw a guilty plea. It states: "A motion to withdraw a plea of guilty may be made only before sentence is imposed or imposition of sentence is suspended; but to correct manifest injustice the court may set aside the judgment of conviction after sentence and may permit the defendant to withdraw a plea of guilty." I.C.R. 33(c). "As the text of the Rule reflects," a motion to withdraw a guilty plea before sentencing requires "a less rigorous measure of proof, *State v. Flowers*, 150 Idaho 568, 571 (2011)." *Sunseri*, 165 Idaho at

13. The district court “is encouraged to liberally exercise its discretion in granting a motion to withdraw a guilty plea,” if made prior to sentencing. *Id.* at 14 (citing *State v. Wyatt*, 131 Idaho 95, 97 (Ct. App. 1998)).

The Court has outlined a two-part analysis to review a motion to withdraw a guilty plea prior to sentencing. First, “the defendant must show a just reason for withdrawing the plea.” *Id.* at 13 (quoting *Flowers*, 150 Idaho at 571). “The just reason standard does not require that the defendant establish a constitutional defect in his or her guilty plea.” *Id.* at 14 (quoting *State v. Hartsock*, 160 Idaho 639, 641 (Ct. App. 2016)). Rather, “[t]he determination whether a defendant has shown a just reason for withdrawal of the plea is a factual decision committed to the discretion of the trial court.” *Id.* Second, if the defendant shows a just reason, “then the State may avoid the granting of the motion by showing that prejudice would result if the plea were withdrawn.” *Id.* (quoting *Flowers*, 150 Idaho at 571).

Although not an exhaustive list, the Court has outlined four factors to consider in the determination of a “just reason.” *Id.* at 14. The district court should consider:

(1) whether the defendant has credibly asserted his legal innocence; (2) the length of delay between the entry of the guilty plea and the filing of the motion; (3) whether the defendant had the assistance of competent counsel at the time of the guilty plea; and (4) whether withdrawal of the plea will inconvenience the court and waste judicial resources.

Id. “[T]he good faith, credibility, and weight of the defendant’s assertions in support of his motion to withdraw his plea are matters for the trial court to decide.” *Id.* (quoting *State v. Hanslovan*, 147 Idaho 530, 537 (Ct. App. 2008)).

Here, Ms. Bowlin submits the district court did not exercise reason by denying her motion to withdraw her guilty plea. Each factor is addressed below.

First, Ms. Bowlin not only asserted her innocence, but also claimed she felt pressured to plead guilty at the start of the trial. (Tr. Vol. II, p.4, Ls.16–21; p.6, L.8–p.7, L.2.) Ms. Bowlin recognizes, however, “[a] declaration of innocence alone does not entitle a defendant to withdraw a guilty plea.” *State v. Akin*, 139 Idaho 160, 162 (Ct. App. 2003) (citing *State v. Knowlton*, 122 Idaho 548, 549 (Ct. App. 1992)). If “there is some basis in the record of factual guilt,” the defendant’s subsequent “denial of factual guilt is not a just reason.” *State v. Dopp*, 124 Idaho 481, 486 (1993); *see also Hanslovan*, 147 Idaho at 537 (defendant’s bare assertions of innocence found to be less credible than sworn testimony provided for factual basis); *Wyatt*, 131 Idaho at 98 (“We conclude that the trial court did not abuse its discretion in denying Wyatt’s motion to withdraw his guilty plea on the basis that his unsworn claim was contradicted by his own testimony at the time of his change of plea and no other proof was presented.”). “[W]ithdrawal is not an automatic right and more substantial reasons than just asserting legal innocence must be given.” *Dopp*, 124 Idaho at 486. When a defendant asserts innocence, the district court must “consider the reason why the defense was not put forward at the time of original pleading.” *Hanslovan*, 147 Idaho at 537 (quoting *State v. Rodriguez*, 118 Idaho 957, 961 (1990)). Although Ms. Bowlin acknowledges that she provided an unsworn claim of innocence, she submits her innocence claim should be considered along with her claim of feeling pressured and unprepared at the start of trial. She also informed the district court that she believed the State’s evidence contained “discrepancies.” (See Tr. Vol. II, p.6, L.8–p.7, L.2.) She submits these facts together established a just reason to withdraw her plea.

Second, Ms. Bowlin asserts the length of delay between her plea and the motion was short. She entered the *Alford* plea on January 8, 2020, and moved to withdraw her plea less than a month later, on February 6, 2020. (R., pp.51, 56.) Therefore, this second factor is in her favor.

Third, Ms. Bowlin acknowledges she had the assistance of counsel at the time of her plea, and she stated at the entry of plea hearing that she was satisfied with her counsel's representation. (Tr. Vol. I, p.6, L.21–p.7, L.3.) Therefore, this third factor is not in her favor.

Fourth, Ms. Bowlin submits the withdrawal of her plea would not greatly inconvenience the district court and unnecessarily waste judicial resources. The trial was scheduled for three days and involved a single count of possession of a controlled substance. (R., p.30.) Therefore, this fourth factor is neutral or in Ms. Bowlin's favor.

In summary, Ms. Bowlin contends the district court did not exercise reason and thus abused its discretion by denying her motion to withdraw her guilty plea. She argues she demonstrated a just reason to withdraw her plea. Upon showing a just reason, the burden shifts to the State to establish "substantial prejudice." *Sunseri*, 165 Idaho at 14–15. The district court did not reach the prejudice inquiry because it ruled Ms. Bowlin did not establish a just reason. (Tr. Vol. II, p.8, Ls.11–16.) Accordingly, Ms. Bowlin respectfully requests the Court vacate the district court's judgment of conviction and its order denying her motion and remand this case for consideration of prejudice to the State.

II.

The District Court Abused Its Discretion When It Declined To Suspend Ms. Bowlin's Sentence And Place Her On Probation

"It is well-established that '[w]here a sentence is within statutory limits, an appellant has the burden of showing a clear abuse of discretion on the part of the court imposing the sentence.'" *State v. Pierce*, 150 Idaho 1, 5 (2010) (quoting *State v. Jackson*, 130 Idaho 293, 294 (1997) (alteration in original)). Similarly, "[t]he choice of probation, among available sentencing alternatives, is committed to the sound discretion of the trial court" *State v. Landreth*, 118

Idaho 613, 615 (Ct. App. 1990). Here, Ms. Bowlin’s sentence does not exceed the statutory maximum. *See* I.C. § 37-2732(c) (seven-year maximum). Accordingly, to show the sentence imposed was unreasonable, Ms. Bowlin “must show that the sentence, in light of the governing criteria, is excessive under any reasonable view of the facts.” *State v. Strand*, 137 Idaho 457, 460 (2002).

“‘Reasonableness’ of a sentence implies that a term of confinement should be tailored to the purpose for which the sentence is imposed.” *State v. Adamcik*, 152 Idaho 445, 483 (2012) (quoting *State v. Stevens*, 146 Idaho 139, 148 (2008)).

In examining the reasonableness of a sentence, the Court conducts an independent review of the entire record available to the trial court at sentencing, focusing on the objectives of criminal punishment: (1) protection of society; (2) deterrence of the individual and the public; (3) possibility of rehabilitation; and (4) punishment or retribution for wrongdoing.

Stevens, 146 Idaho at 148. “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.” *State v. Delling*, 152 Idaho 122, 132 (2011).

Here, Ms. Bowlin asserts the district court did not exercise reason and thus abused its discretion by imposing an excessive sentence under any reasonable view of the facts. Specifically, she contends the district court should have suspended her sentence and placed her on probation in light of the mitigating factors.

As Ms. Bowlin stated at the sentencing hearing, she has not used methamphetamine since 2013. (Tr. Vol. III, p.14, Ls.8–9.) In 2013, Ms. Bowlin was sentenced to drug court for a charge of possession of a controlled substance. (PSI, p.5.) She successfully completed drug court in 2015 and received a withheld judgment. (PSI, p.5.) Before drug court, Ms. Bowlin has used methamphetamine daily for about twelve years (from ages thirty-three to forty-five). (PSI, p.11.)

The instant offense, also possession of a controlled substance, was her second felony charge. (PSI, pp.4–5.) She repeatedly denied possessing the baggie of methamphetamine. (PSI, pp.4, 12; Tr. Vol. II, p.6, L.8–p.7, L.2; Tr. Vol. III, p.14, Ls.3–19.) She explained: “I did not comit [sic] the crime I am being accused of. I did drop an item but it wasn’t drugs. I have never been more sure of anything in my life. I have been clean since Dec. 3, 2013 and plan on staying that way.” (PSI, p.12.) Along with her commitment to her sobriety, Ms. Bowlin had other positive factors to show she was an appropriate candidate for probation. Ms. Bowlin could not maintain employment due to seizures and anxiety, but she received social security disability benefits. (PSI, pp.9, 10.) She lived with her brother and his family and enjoyed positive hobbies, such as arts and crafts and woodworking. (PSI, p.7.) She valued her family. (PSI, p.12.) In addition, she recently accomplished her goal of purchasing a trailer and hoped to live there. (PSI, pp.8, 12.) These mitigating factors—Ms. Bowlin’s sobriety, stable housing and income, family support, and positive values—demonstrated Ms. Bowlin could comply with the terms and conditions of probation. Probation could provide adequate protection for society while allowing for Ms. Bowlin’s continued rehabilitation.

In sum, Ms. Bowlin contends the district court did not exercise reason by retaining jurisdiction because proper consideration of these mitigators warranted a suspended sentence and probation. She respectfully requests this Court vacate the district court’s judgment of conviction and remand this case for new judgment of conviction suspending her sentence and placing her on probation or, alternatively, a new sentencing hearing.

CONCLUSION

On Ms. Bowlin's motion to withdraw her guilty plea, she respectfully requests this Court vacate the district court's judgment of conviction and its order denying her motion to withdraw her plea and remand this case for further proceedings. On the sentencing issue, Ms. Bowlin respectfully requests this Court vacate the district court's judgment of conviction and remand this case for new judgment of conviction suspending her sentence and placing her on probation or, alternatively, a new sentencing hearing.

DATED this 1st day of September, 2020.

/s/ Jenny C. Swinford
JENNY C. SWINFORD
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of September, 2020, I caused a true and correct copy of the foregoing APPELLANT'S BRIEF to be served as follows:

KENNETH K. JORGENSEN
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/s/ Evan A. Smith
EVAN A. SMITH
Administrative Assistant

JCS/eas