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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	
	)	NOS. 48078-2020, 48079-2020 &
Plaintiff-Respondent,	)	48080-2020
	)	
v.	)	Kootenai County Case Nos.
	)	CR-2012-575, CR-2013-2256 &
DARRELL LAVERNE BEEDLES,	)	CR-2014-20595
	)	
Defendant-Appellant.	)	RESPONDENT'S BRIEF
	)	

Has Beedles failed to show that the district court abused its sentencing discretion when it denied Beedles's motions to reduce his consecutive sentences of ten years with three years determinate for failing to register as a sex offender, ten years with zero years determinate for providing false information to the sex offense registry, and ten years with two years determinate for providing false information to the sex offense registry?

ARGUMENT

Beedles Has Failed To Show That The District Court Abused Its Discretion By Denying His Motions To Reduce His Sentences

A. Introduction

In these three consolidated cases, Beedles was convicted in 2012 of failing to register as a sex offender (48078 R., pp. 64-72), in 2013 of providing false information to the sex offense registry (48079 R., pp. 60-63), and in 2015 of another count of providing false information to the sex offense registry (48080 R., pp. 46-49). The district court sentenced Beedles to consecutive sentences of, respectfully, ten years determinate (48078 R., pp. 64-72), ten years with zero years determinate (48079 R., pp. 60-63), and ten years with two years determinate (48080 R., pp. 46-49). Beedles violated probation six times (48078 R., pp. 96-99, 118-20, 143-46, 170-72, 211-16, 233-35; 48079 R., pp. 84-86, 92-95, 121-23, 160-62, 164-66, 183-85; 48080 R., pp. 76-78, 118-23, 139-41); and went through the retained jurisdiction program five times (48078 R., pp. 103-04, 126-27, 149-50, 175-76, 222-23; 48079 R., pp. 65-66, 99-100, 126-27, 172-73; 48080 R., pp. 57-58, 82-83, 129-30). When the district court imposed the sentences without retaining jurisdiction on the sixth probation violation, it reduced the sentence for failing to register to ten years with three years determinate. (48078 R., p. 234.) Thus, with credit for time served, Beedles's fixed time has been served. (Id.)

Fourteen days after the imposition of his sentences on his sixth probation violation, Beedles moved to reduce his sentences. (48078 R., pp. 237-38; 48079 R., pp. 187-88; 48080 R., pp. 143-44.) The district court denied the motions to reduce the sentences. (48078 R., p. 253; 48079 R., p. 203; 48080 R., p. 154.) Beedles filed a notice of appeal 61 days after the judgments were entered, on the day the district court orally denied his motions to reduce the sentences. (48078 R., pp. 248-51; 48079 R., pp. 196-201; Aug., pp. 1-3.)

B. Standard Of Review

"A motion for reduction of sentence under I.C.R. 35 is essentially a plea for leniency, addressed to the sound discretion of the court." State v. Burggraf, 160 Idaho 177, 180, 369 P.3d 955, 958 (Ct. App. 2016). 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. Beedles Has Shown No Abuse Of The District Court's Discretion

In presenting a Rule 35 motion, a defendant "must show that the sentence is excessive in light of new or additional information subsequently provided to the district court" in support of the motion. State v. Huffman, 144 Idaho 201, 203, 159 P.3d 838, 840 (2007). 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)).

Beedles's motion to reduce his sentence was premised upon his performance while incarcerated. (Tr., p. 18, L. 6 – p. 21, L. 13; p. 22, Ls. 1-23.) The district court did not "see a need for any further reduction" than the one it granted at the time it imposed sentence. (Tr., p. 23, L. 21 – p. 24, L. 2.) Another probation was "out of the question" given Beedles's eight year history in these cases. (Tr., p. 24, Ls. 3-8.) The district court found Beedles was a "risk to the community" because he was a "risk to reoffend in the sexual area" and was not "abiding by the laws that attach to a sexual offender." (Tr., p. 24, Ls. 6-12.) Because Beedles amply demonstrated his inability or unwillingness to comply with the sex offender registry laws or the terms of probation, the record supports the district court's exercise of discretion.

Beedles contends the district court abused its discretion because it "did not exercise reason" by giving "[p]roper consideration" to certain matters. (Appellant's brief, p. 7.) Specifically, he asserts that "[p]rior to having his probation revoked" he "attended group sessions," "obtained a mental health evaluation," and had negative drug tests on most of the tests where he showed up. (Appellant's brief, p. 7.) Once in prison he attended Bible study, enrolled in digital literacy classes, worked in the prison kitchen, got into the dog program, and had no disciplinary reports. (Appellant's brief, p. 7.) These factors, properly considered, show no abuse of discretion.

At the disposition hearing the district court reduced Beedles's fixed portion to less than what he had already served (48078 R., p. 234), meaning Beedles was immediately eligible for parole. Six probation violations in eight years demonstrated that Beedles was not a viable candidate for probation. Because he was almost constantly in the retained jurisdiction program,

Beedles spent almost as much time in custody than out of custody since probation was first granted. The district court was "glad that Mr. Beedles is making good use of his time" while incarcerated, but concluded the information did not warrant a reduction in sentence. (Tr., p. 23, L. 21 – p. 24, L. 13.) Beedles has shown no abuse of discretion.

CONCLUSION

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

DATED this 20th day of October, 2020.

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 20th 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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