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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,)	NOS. 48101-2020 & 48102-2020
)	
v.)	TWIN FALLS COUNTY
)	NOS. CR42-15-11847 &
)	CR42-18-9535
)	
MICKI MARIE JAMES,)	
)	APPELLANT’S BRIEF
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

In these consolidated cases, Micki Marie James appeals from the district court’s orders denying her Idaho Criminal Rule 35 motions for reduction of her concurrent prison sentences of six years, with three years fixed, for possessing controlled substances. On appeal, she argues her sentences are excessive in light of the additional information she provided with her Rule 35 motions, and represent an abuse of the district court’s sentencing discretion.

Statement of the Facts and Course of Proceedings

In 2015, Ms. James was arrested for possession of a controlled substance; she subsequently pled guilty and was granted a suspended sentence of six years, with three years fixed, and placed on probation. (“2015 case”). (Appeal No. 48101 R., pp.11, 21, 96.) In 2018, Ms. James was arrested and charged with a new felony count of possessing a controlled substance, along with two misdemeanors. (“2018 case”) (Appeal No. 48102 R., p.18.) In the 2018 case, Ms. James pled guilty to the possession charge and the district court sentenced her to six years, with three years fixed, to run concurrently with the sentence in the 2015 case, and retained jurisdiction. (Appeal No. 48102 R., pp.18, 66.) In the 2015 case, the district court revoked Ms. James’ probation, executed the underlying sentence, and retained jurisdiction. (Appeal No. 48101 R., p.112.)

The Idaho Department of Correction placed Ms. James in the rider program at the South Boise Women’s Correctional Center. (Conf.Ex., R., p.58.)¹ Ms. James had a difficult time while on her rider. She struggled in her classes and had trouble with the institution’s rules, receiving disciplinary reports (DORs) for a physical altercation with another inmate, and for testing positive for amphetamines. (Appeal No. No. 48101 Conf.Ex., pp.61-64.) At the conclusion of her rider, the Department of Correction recommended that the district court consider relinquishing jurisdiction. (Appeal No. 48101 Conf.Ex., p.64.) In February of 2020, the district court entered orders relinquishing jurisdiction in both of Ms. James’ cases. (Appeal 4801 R., p.117; Appeal No. 48102 R., p.80.)

¹ Citations to “Conf.Ex.” refer to 73-page file labeled Supreme Court No. 48101-2020 - Confidential Exhibits,” which contains the Presentence Report, and the Addendum to the Presentence Report that was filed in both of Ms. James’ cases.

Thereafter, in March of 2020, Ms. James timely filed motions for reduction of her sentences, accompanied by supporting memoranda that provided the district court with additional information. (*See* Appeal No. 48101 R., pp.119, 137-41; Appeal No. 48102 R., pp.82, 104-09). No objections were filed by the State. (*See generally* Appeal No. 48101 R.; Appeal No. 48102 R.) The district court denied Ms. James' motions. (*See* Appeal No. 48101 R., pp.142-43; Appeal No. 48102 R., pp.109-10).

Ms. James timely appealed the district court's orders. (Appeal No. 48101 R., p.143; Appeal No. 48102, R., p.111). This Court subsequently entered an order consolidating Ms. James' appeals. (*See* Order Granting Motion to Consolidate, dated October 13, 2020.)

ISSUE

Did the district court abuse its discretion when it denied Ms. James' Criminal Rule 35 Motions For Reduction Of Her Sentences?

ARGUMENT

The District Court Abused Its Discretion When It Denied Ms. James' Criminal Rule 35 Motions For Reduction Of Her Sentences

A. Introduction

The district court erred in denying Ms. James' Criminal Rule 35(b) motions for reduction of her sentences. The additional information Ms. James presented to the district court demonstrates that her concurrent sentences of six years, with three years fixed, without probation, are excessively harsh and unreasonable. The orders denying her motions should be reversed.

B. Standard Of Review

The district court's sentencing decisions are reviewed under the multi-tiered abuse of discretion standard. *State v. Miller*, 151 Idaho 826, 834 (2011). The relevant inquiry is whether the district court: correctly perceived the issue as one of discretion; acted within the boundaries of its discretion; acted consistently with the legal standards applicable; and reached its decision by an exercise of reason. *Id.*; *see also State v. Le Veque*, 164 Idaho 110, 12 (2018).

A request for reduction of sentence pursuant to Idaho Criminal Rule 35(b) is essentially a plea for leniency which may be granted if the sentence originally imposed was unduly severe. *State v. Trent*, 125 Idaho 251, 253 (Ct. App. 1994). "When presenting a Rule 35 motion, the 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 Rule 35 motion." *State v. Huffman*, 144 Idaho 210, 203 (2007). "The criteria for examining rulings denying the requested leniency are the same as those applied in determining whether the original sentence was reasonable." *Trent*, 125 Idaho at 253. Where a defendant challenges her sentence as excessively harsh, the appellate court conducts an independent review of the record, giving consideration to the nature of the offense, the character of the offender, and the protection of the public interest. *Miller*, 151 Idaho at 834.

C. The Additional Information Presented In Connection With Ms. James' Rule 35 Motions Demonstrates That Her Concurrent Sentences Of Six Years, With Three Years Fixed, Is Unreasonably Harsh

In connection with her Rule 35 motions, Ms. James presented additional information that showed she was worthy of probation or an earlier opportunity for parole. As set forth in her motion, Ms. James' two young children are her most important reasons. (Appeal No.48101 R., p.120.) Though one of them was with his father, the other had been placed with Child Protective

Services and Ms. James' continued incarceration risked the loss of her parental rights. (Appeal No.48101 R., p.120.)

Ms. James also acknowledged she had two disciplinary violations while on her rider, and she explained the mitigating circumstances surrounding those incidents. With regard to her first DOR – the physical altercation – Ms. James described that she had decided to stand up for a vulnerable young woman who was being constantly bullied by the other inmates. (Appeal No.48101 R., p.121.) On the day of the violation, Ms. James had seen enough and decided to speak out; her action lead to a heated argument and to Ms. James and another inmate “bumping chests.” (Appeal No.48101 R., p.121.) Ms. James told the court the younger woman's name and reported that the woman had later committed suicide. (Appeal No.48101 R., p.121.)

Regarding her second DOR – the positive drug test – Ms. James advised the court she had involuntarily ingested methamphetamine at the hands of fellow inmate, though her case manager refused to accept her story, even though Ms. James had disclosed everything that she knew about the situation and had asked for help. (Appeal No.48101 R., p.121.)

In her Rule 35 motion, Ms. James told the court that her programming had meant everything to her; she said that she had become a different person after she started the rider, and she implored the district court for another chance or to do what it deemed was fair. (Appeal No.48101 R., p.122.) Ms. James also informed the court that she had obtained additional certificates in Thinking for A Change, and in Digital Literacy, and that she was currently working through a self-help book, “Don't Let Your Emotions Run Your Life.” (Appeal No.48101 R., p.123.)

Ms. James additionally asserts that, when viewed through the lens of the new information that she presented with her motion, her personal history further demonstrates that her sentences

are unreasonably harsh. Ms. James endured traumatic childhood experiences at the hands of a father who was often high and would beat her mother, herself, and her siblings. (Conf.Ex., p.7.) As a child, Ms. James was in weekly counseling because of the effects of that abuse. (Conf.Ex., p.11.) As a teenager, Ms. James would cut herself and had been hospitalized for treatment; she had also attempted to end her own life by drug overdosing in order to end “the pain.” (Conf.Ex., p.11.) Ms. James spent three years in the foster system and, at the time, she thought it was the best thing in her life. (Conf.Ex., p.7.)

In 2011, following her first charge of drug possession, Ms. James participated in substance abuse treatment and had remained sober for three years. (Conf.Ex., p.13.) However, in 2012, Ms. James lost her best friend – her mother – to cancer. (Conf.Ex., pp.7, 16.) Ms. James did not know how to mourn that loss and she kept her feelings inside, which she believes contributed to her relapse in 2015. (Conf.Ex., p.7.)

Ms. James desperately needs substance abuse treatment and help managing her mental health, not a lengthy incarceration. In light of the additional information presented with her Rule 35 motions, her concurrent prison sentences of six years, with three years fixed, are excessively harsh and therefore unreasonable, representing an abuse of the district court’s discretion.

CONCLUSION

Ms. James respectfully asks this Court to reverse the district court’s orders denying her Rule 35 motions, and to remand her case with instructions that the district court place her on probation or reduce her sentences.

DATED this 22nd day of December, 2020.

/s/ Kimberly A. Coster
KIMBERLY A. COSTER
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd 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

KAC/eas