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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 47828-2020
Plaintiff-Respondent,)	
)	Bonneville County Case No.
v.)	CR10-19-1787
)	
DWAYNE CHARLES CHRISTIANSEN,)	
)	RESPONDENT’S BRIEF
Defendant-Appellant.)	
_____)	

Has Christiansen failed to show that the district court abused its sentencing discretion when it rejected Christiansen’s request for a withheld judgment?

ARGUMENT

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

A. Introduction

A container that fell from Christiansen’s vehicle contained 9.4 grams of methamphetamine and a pipe. (PSI, p. 3.) The state charged Christiansen with possession of methamphetamine and possession of paraphernalia. (R., pp. 34-35.) A jury convicted Christiansen of possession of

methamphetamine after a trial. (R., pp. 65-73, 77.) The district court imposed a sentence of six years with two years determinate, suspended the sentence, and placed Christiansen on probation. (R., pp. 87-89.) Christiansen filed a notice of appeal timely from the entry of judgment. (R., pp. 94-96.)

On appeal Christiansen argues “the district court did not have sufficient information to determine a withheld judgment would be inappropriate.” (Appellant’s brief, p. 4.) He has failed to show an abuse of discretion on the record.

B. Standard Of Review

At sentencing “the court in its discretion may ... [w]ithhold judgment.” I.C. § 19-2601. 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, 270, 429 P.3d 149, 158 (2018) (citing Lunneborg v. My Fun Life, 163 Idaho 856, 863, 421 P.3d 187, 194 (2018)).

C. Christiansen Has Shown No Abuse Of The District Court’s Discretion

“Refusal to grant a withheld judgment will not be deemed an abuse of discretion if the trial court has sufficient information to determine that a withheld judgment would be inappropriate.” State v. Edghill, 134 Idaho 218, 219, 999 P.2d 255, 256 (Ct. App. 2000) (quotation marks omitted). “If the defendant claims the sentencing court erred in failing to order a withheld judgment, the defendant must demonstrate the decision was an abuse of discretion.” State v. Rollins, 152 Idaho 106, 115, 266 P.3d 1211, 1220 (Ct. App. 2011). “The issue before this Court is not whether the

sentence is one that we would have imposed, but whether the sentence is plainly excessive under any reasonable view of the facts.” State v. Aguilar, 154 Idaho 201, 205, 296 P.3d 407, 411 (Ct. App. 2012).

The district court considered the goals of sentencing (Tr., p. 229, Ls. 8-11); the sentencing materials and arguments (Tr., p. 229, Ls. 12-14); Christiansen’s “prior criminal history,” including the “very, very serious pending matters” (Tr., p. 229, L. 15 – p. 230, L. 6); the “overwhelming” support Christiansen had received from letters to the court (Tr., p. 230, Ls. 7-9); and the LSI recidivism score (which the district court concluded was probably too high), Christiansen’s employability, and his substance abuse issues (Tr., p. 230, Ls. 10-12). Based on these considerations, the district court concluded that a withheld judgement was not “appropriate.” (Tr., p. 231, L. 16 – p. 232, L. 8; p. 232, Ls. 23-25.)

The record supports the district court’s exercise of discretion. The “very, very serious pending matters” the district court referenced were a battery committed in the jail, intimidating a witness, and trafficking in methamphetamine charges. (PSI, pp. 5-6.¹) Christiansen has a methamphetamine habit over two decades old that he does not feel the need to address though treatment. (PSI, pp. 1, 12-13, 27-28, 31.) Indeed, he was of the opinion that treatment would do more harm than good. (PSI, pp. 28, 31.) The GAIN evaluation recommended “intensive outpatient treatment” with an increased “level of care” if Christiansen “is unable to abstain from drugs/alcohol at this level of care.” (PSI, p. 28 (bolding and capitalization omitted).) The mental evaluation determined there was a “high likelihood [Christiansen] will continue to use drugs/alcohol without close monitoring and structured therapeutic services” and that he lacks

¹ Christiansen’s conviction on the trafficking charge is pending on appeal in Docket Number 48181-2020.

“awareness of his relapse triggers” and has difficulties “in coping or postponing immediate gratification.” (PSI, p. 31.) Christiansen’s “perspective inhibits his ability to make behavioral changes without repeated, structured, clinically directed motivational interventions.” (Id.) The record shows that Christiansen’s criminal activity was deeply entrenched and unlikely to be easily or speedily addressed through probation and treatment.

On appeal Christiansen identifies the same mitigating factors specifically considered by the district court at sentencing. (Compare Appellant’s brief, p. 4 with Tr., p. 229, L. 15 – p. 231, L. 23.) The district court weighed these mitigating factors against imposing a prison sentence instead of concluding they merited withholding judgment. (Tr., p. 232, Ls. 11-16.) Christiansen has shown no abuse of discretion.

CONCLUSION

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

DATED this 19th day of February, 2021.

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 19th day of February, 2021, 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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KKJ/dd