

9-29-2017

# State v. Cota-Medina Appellant's Reply Brief Dckt. 44940

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**IN THE SUPREME COURT OF THE STATE OF IDAHO**

STATE OF IDAHO, )  
 ) Nos. 44940 & 44941  
 Plaintiff-Appellant, )  
 ) Canyon County Case Nos.  
 v. ) JV-2016-326 & CR-2016-14863  
 )  
 MANUEL JESUS COTA-MEDINA, )  
 )  
 Defendant-Respondent. )  
 \_\_\_\_\_ )

\_\_\_\_\_  
**REPLY BRIEF OF APPELLANT**  
\_\_\_\_\_

**APPEAL FROM THE DISTRICT COURT OF THE THIRD JUDICIAL  
DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE  
COUNTY OF CANYON**  
\_\_\_\_\_

**HONORABLE D. DUFF McKEE**  
**District Judge**  
\_\_\_\_\_

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## STATEMENT OF THE CASE

### Statement Of The Facts And Course Of The Proceedings

The facts and procedure relevant to this appeal are set forth in the Appellant's brief, and are based on the record and the factual findings by the trial court, respectively. (Appellant's brief, pp. 1-3 (citing R., pp. 76-86).) Cota-Medina does not rely on the facts found by the trial court. (Respondent's brief, pp. 1-3 (citing to the transcript and the Waiver Report).) Because Cota-Medina asserts some facts contrary to those found by the magistrate without claiming (much less showing) clear error, this Court must reject Cota-Medina's asserted facts where they are inconsistent with the facts found by the trial court. See Crosby v. Rowand Mach. Co., 111 Idaho 939, 942, 729 P.2d 414, 417 (Ct. App. 1986) ("The party challenging a judge's finding of fact has the burden of showing clear error.").

For example, Cota-Medina asserts as fact: "Although the Juvenile suspected that they were transporting drugs, he did not know how much or what had been placed in Camacho's vehicle." (Respondent's brief, p. 2 (citing Tr., p. 109).) The district court specifically found that Cota-Medina's "denial of knowledge of concealed drugs is not credible." (R., p. 79.)

Cota-Medina also argues that the Waiver Report provided information about Cota-Medina's living arrangements, education, and independence from his parents that is "[c]ontrary to the magistrate's finding[s]." (Appellant's brief, pp. 2-3.) However, the district court also considered Cota-Medina's statements to the police and other evidence. (R., p. 80.) Cota-Medina has failed to show any clear error in the trial court's factual findings based on conflicting evidence.

## ARGUMENT

### The District Court Erred When It Concluded That None Of The Relevant Factors Favored Waiver As A Matter Of Law

#### A. Introduction

The magistrate concluded that the first four factors in I.C. § 20-508(8) “weigh heavily in favor of waiving jurisdiction” while the other factors were neutral or do “not weigh greatly against it.” (R., pp. 82-85.) The district court concluded that none of the factors weigh in favor of waiving juvenile jurisdiction as a matter of law. (R., p. 221.) Review, however, shows that the magistrate faithfully followed the statutory language while the district court erroneously substituted its own opinions for the language of the statute and the trial court’s weighing of the factors. (Appellant’s brief, pp. 5-13.)

Cota-Medina argues that the district court correctly interpreted the statute. (Respondent’s brief, pp. 4-16.) Review shows that the district court applied standards inconsistent with the language of the applicable statute while the magistrate applied the correct legal standards, and therefore the district court erred on intermediate appeal by reversing the magistrate’s waiver order.

#### B. The Seriousness Of The Offense And Whether The Protection Of The Community Requires Isolation Of The Juvenile Beyond That Afforded By Juvenile Facilities<sup>1</sup>

The trial court concluded that Cota-Medina was charged with a serious offense because the legislature had provided a sentence of up to life with a mandatory minimum sentence of three years for trafficking in two grams or more of heroin, and the evidence indicated Cota-Medina had trafficked in 85 times that amount. (R., p. 82.) It cited law that

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<sup>1</sup> I.C. § 20-508(8)(a).

the legislature may “rationally and legitimately” conclude that delivering larger amounts of drugs “creates greater harm and a greater threat to society” than delivering lesser amounts. (R., p. 82 (emphasis omitted) (quoting State v. Rogerson, 132 Idaho 53, 57, 966 P.2d 53, 57 (Ct. App. 1998).) Furthermore, given the high sentence needed for punishment and deterrence of even the basic trafficking amount, a maximum juvenile sentence of 180 days or commitment to the Department of Juvenile Correction until Cota-Medina turned 21 (about three years) did not adequately protect the community. (R., pp. 82-83.) This analysis is entirely consistent with the statutory language of the factor—“The seriousness of the offense and whether the protection of the community requires isolation of the juvenile beyond that afforded by juvenile facilities”—and was a proper exercise of discretion. I.C. § 20-508(8)(a).

In contrast, the district court reasoned that, as matter of law, a trafficker who is a mere “mule,” as opposed to a “kingpin,” does not commit a serious offense as defined in the waiver statute. (R., pp. 221-23.) Cota-Medina repeats this argument, asserting that the state must “demonstrate something exceptional about this crime and this juvenile before waiver of juvenile jurisdiction.” (Respondent’s brief, p. 10.) This argument has no basis in the language of the statute.

Cota-Medina also argues that “[t]he language of the statute refers to the juvenile, not a hypothetical juvenile.” (Respondent’s brief, p. 8.) The state agrees, but that does not show error by the trial court. The magistrate looked at the seriousness of the crime Cota-Medina was charged with and whether the juvenile sentences potentially applicable to Cota-Medina would protect the community. (R., pp. 82-83.) It was not some hypothetical juvenile who “drove a load car from Arizona to Idaho with over **EIGHTY-FIVE** times the

amount of heroin that would **require** a court to impose a mandatory fixed minimum prison sentence of fifteen years.” (R., p. 82 (emphasis original).) Nor was it a hypothetical juvenile who “would face a maximum of 180 days of detention and/or being committed to the legal custody of the Department of Juvenile Corrections until age 21.” (R., p. 83.) Nor was it some hypothetical juvenile’s story that “he was casually recruited to engage in this crime by a man he met at a party” that the trial court found “incredible.” (R., p. 83.) Cota-Medina’s argument that the magistrate considered only a hypothetical juvenile and not the facts relevant to him is directly contrary to the record.

C. Whether The Alleged Offense Was Committed In An Aggressive, Violent, Premeditated, Or Willful Manner<sup>2</sup>

The magistrate court concluded this factor weighed in favor of waiver on the basis that the crime was premeditated and willful. (R., pp. 83-84.) The court’s factual findings underpinning that conclusion were that Cota-Medina “recruited Camacho’s help,” made “arrangements to secrete the heroin in the car,” “knew he was transporting illegal drugs,” “expected to [be] paid,” “obtained cocaine to help him stay awake on the drive to Idaho,” and “pre-arrange[d] a communication strategy” with Ramirez to arrange a location for the sale. (R., p. 83.) The magistrate found the crime was not the result of “being in the wrong place at the wrong time” or of “sudden impulsive behavior.” (R., p. 83.) The trial court’s determination that the alleged offense was committed in a premeditated or willful manner is supported by the record and consistent with its discretion.

The district court concluded that the alleged offense was not committed in a premeditated or willful manner as a matter of law because the words “premeditated” or

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<sup>2</sup> I.C. § 20-508(8)(b).



“willful” as used in the statute “cannot merely refer to the manner in which the crime was committed, but rather to the manner in which the juvenile carried out that crime,” which, in context, required an “element of force or fear.” (R., p. 224.) Cota-Medina repeats that argument. (Respondent’s brief, pp. 11-12.) Nothing in the statutory language requires drawing a distinction (if such is even possible) between “the manner in which the crime was committed” and “the manner in which the juvenile carried out that crime.” Even less suggests that the statute requires the court to find “force or fear” in order to find the alleged crime to have been committed in a “premeditated” or “willful” manner.

The magistrate found a degree of planning and preparation that showed the crime was premeditated and willful and belied any claim that the crime was committed impulsively or inadvertently. This finding supports the magistrate’s exercise of discretion in weighing this factor in favor of waiver.

D. Whether The Alleged Offense Was Against Persons Or Property, Greater Weight Being Given To Offenses Against Persons<sup>3</sup>

Under the plain language of this statutory factor, crimes against persons or property weigh in favor of waiver, with greater weight given to offenses against persons. I.C. § 20-508(8)(c). The magistrate concluded heroin trafficking was “an offense against persons” because of “the danger that drugs present to the public.” (R., p. 84.) Cota-Medina argues that heroin trafficking is a victimless crime, akin to inattentive driving, because there were no “actual victims” as opposed to “hypothetical ones.” (Respondent’s brief, p. 13.) As stated by the Court of Appeals in the case cited by the magistrate, the high sentences imposed upon drug trafficking crimes (as opposed, for example, to inattentive driving)

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<sup>3</sup> I.C. § 20-508(8)(c).

derive from the rational and legitimate determination by the legislature that drug trafficking causes great harm to society. State v. Rogerson, 132 Idaho 53, 57, 966 P.2d 53, 57 (Ct. App. 1998). Because society is made of persons, trafficking is a crime against persons. That police intercepted the heroin before it entered anyone's veins did not render this crime victimless. The magistrate did not err as a matter of law or abuse its discretion by concluding that the crime of trafficking in heroin is not victimless.

E. The Maturity Of The Juvenile As Determined By Considerations Of His Home, Environment, Emotional Attitude, And Pattern Of Living<sup>4</sup>

The magistrate found Cota-Medina's maturity "on par" with that of a young adult because of his biological age, his choice to leave school and live independent of his parents, the lack of a need for significant adult guidance in his life, that his choice to get involved in the drug trade was motivated by a desire to make money, and he demonstrated "sophistication, and knowledge of the significant consequences of being caught." (R., pp. 84-85.) The district court determined, and Cota-Medina argues on appeal, that the magistrate erred by considering his biological age. (R., p. 227 (issue is not age, but "exceptionalism"); Respondent's brief, pp. 14-15 (arguing for "presumption" that age-appropriate maturity weighs against waiver).) Although biological age is not specifically included in the statutory language of this factor, it is certainly relevant to the question of maturity.

Evidence is relevant if it has "any tendency" to make a fact of consequence "more probable." I.R.E. 401. Evidence that Cota-Medina was within three months of his eighteenth birthday was relevant to determining his maturity. Moreover, the magistrate

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<sup>4</sup> I.C. § 20-508(8)(d).

specifically considered Cota-Medina’s “home environment, emotional attitude, and pattern of living” along with his biological age when evaluating this factor. (R., pp. 84-85.) The district court erred when concluding that this factor could not weigh in favor of Cota-Medina’s waiver as a matter of law.

F. The District Court Erred

This Court directly reviews the district court’s appellate decision “to determine whether it correctly decided the issues presented to it on appeal.” Borley v. Smith, 149 Idaho 171, 176, 233 P.3d 102, 107 (2010). “An order waiving juvenile jurisdiction is reviewed under the abuse of discretion standard.” Zamora v. State, 123 Idaho 192, 194, 846 P.2d 194, 196 (1992). “The interpretation of a statute is a question of law over which this Court exercises free review.” Simono v. House, 160 Idaho 788, 791, 379 P.3d 1058, 1061 (2016) (internal quotations omitted). Review shows that the district court did not correctly decide the issue presented on appeal because the magistrate court did not abuse its discretion and because the district court substituted its own personal view of the proper standards for waiving juveniles into adult court for the legislative intent expressed in the plain language of the statute.

CONCLUSION

The state respectfully requests this Court to reverse the district court's decision on appeal and affirm the magistrate's order waiving juvenile jurisdiction.

DATED this 29th day of September, 2017.

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

CERTIFICATE OF MAILING

I HEREBY CERTIFY that I have this 29th day of September, 2017, served two true and correct paper copies of the foregoing REPLY BRIEF OF APPELLANT by placing the copies in the United States mail, postage prepaid, addressed to:

RANDY W. SMITH  
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/s/ Kenneth K. Jorgensen  
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KKJ/dd