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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 47996-2020
Plaintiff-Respondent,)	
)	Kootenai County Case No.
v.)	CR28-19-20469
)	
JARROD CHRISTOPHER FIFE,)	
)	RESPONDENT’S BRIEF
Defendant-Appellant.)	
_____)	

ISSUES

1. Has Fife failed to show that the district court abused its sentencing discretion when it imposed a unified sentence of twenty years with five years fixed following his pleas of guilty to trafficking in heroin, unlawful possession of a firearm, driving under the influence, and obstructing an officer?
2. Has Fife failed to show that the district court abused its discretion by denying his Rule 35 motion for reduction of sentence?

STATEMENT OF THE CASE

Law enforcement responded to a parking lot regarding possible drug activity occurring in a vehicle. (R., p.14.) Officers made contact with Fife and another individual in the vehicle. (R.,

p.14.) Fife provided a false name and initially refused to exit the vehicle. (R., p.14.) Fife appeared to be under the influence of a controlled substance. (R., p.14.) Based on his performance on field sobriety tests, officers arrested Fife. (R., p.14.) Officers searched the vehicle and located several items of paraphernalia, a firearm, over 100 grams of methamphetamine, over 20 grams of heroin, over 20 grams of cocaine, 72 tablets of fentanyl, a green leafy substance, and pills. (R., pp.14-16; PSI, p.54.)

The state charged Fife with five felonies—trafficking in heroin (7 to 28 grams), trafficking in methamphetamine (28 to 200 grams), possession of a controlled substance (fentanyl), unlawful possession of a firearm, possession of a controlled substance (cocaine)—and five misdemeanors—driving under the influence (second offense), obstructing an officer, possession of paraphernalia, providing false information to law enforcement, and possession of a controlled substance (buprenorphine). (R., pp.82-85.) In addition, the state filed an Information Part II and III, seeking a persistent violator enhancement. (R., pp.85-86.)

Pursuant to a plea agreement, Fife pleaded guilty to trafficking in heroin (2 to 7 grams), unlawful possession of a firearm, driving under the influence, and obstructing an officer and admitted the persistent violator enhancement; in exchange, the state dismissed the remaining charges. (See R., pp.89-95, 98-100; see also Tr., p.10, L.19 – p.11, L.13; p.16, L.13 – p.17, L.9.) The district court sentenced Fife to twenty years with five years fixed for trafficking in heroin, five years fixed for unlawful possession of a firearm to run concurrently, and time served for the misdemeanors. (R., pp.104-08; Tr., p.34, L.1 – p.35, L.6.) Fife filed a Rule 35 motion requesting a reduction of his sentence. (R., pp.117-19.) After a hearing, the district court denied the motion. (See Aug., pp.1-23; see also Supp. Tr.) Fife timely appealed from the judgment of conviction. (R., pp.113-15.)

ARGUMENT

I.

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

A. Introduction

Fife asserts that the district court abused its discretion when it sentenced him to twenty years with five years fixed following his pleas of guilty to trafficking in heroin, unlawful possession of a firearm, driving under the influence, and obstructing an officer. (Appellant’s brief, pp.5-7.) Fife has shown no abuse of discretion. The sentence imposed is reasonable in light of the fact that Fife was in possession of a firearm and significant quantities of multiple controlled substances, and in light of Fife’s extensive criminal history, which demonstrates a steady pattern of criminality spanning several decades.

B. Standard Of Review

The length of a sentence is reviewed under an abuse of discretion standard considering the defendant’s entire sentence. State v. Oliver, 144 Idaho 722, 726, 170 P.3d 387, 391 (2007) (citing State v. Strand, 137 Idaho 457, 460, 50 P.3d 472, 475 (2002); State v. Huffman, 144 Idaho 201, 159 P.3d 838 (2007)). Where a sentence is within statutory limits, the appellant bears the burden of demonstrating that it is a clear abuse of discretion. State v. Baker, 136 Idaho 576, 577, 38 P.3d 614, 615 (2001) (citing State v. Lundquist, 134 Idaho 831, 11 P.3d 27 (2000)). 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. The District Court Did Not Abuse Its Sentencing Discretion

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 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. “In deference to the trial judge, this Court will not substitute its view of a reasonable sentence where reasonable minds might differ.” State v. Matthews, 164 Idaho 605, 608, 434 P.3d 209, 212 (2018) (quoting State v. Stevens, 146 Idaho 139, 148-49, 191 P.3d 217, 226-27 (2008)).

The sentence imposed is reasonable in light of the underlying facts of the case. Inside Fife’s vehicle, officers found a firearm, over 100 grams of methamphetamine, over 20 grams of heroin, over 20 grams of cocaine, 72 tablets of fentanyl, a green leafy substance, and pills. (R., pp.14-15; PSI, p.54.) Fife admitted he was a heavy drug user and brought a large quantity of drugs with him in the vehicle because he did not know how long he would be gone. (PSI, p.8.) He also admitted he “borrowed” the firearm and had it for “safety.” (PSI, p.8.) At the time of his arrest, Fife was under the influence of “meth, heroin, oxycodone, benzo’s, and crack.” (PSI, p.8.)

Additionally, Fife was uncooperative with law enforcement and initially provided false information. (R., p.14.)

The sentence is also reasonable in light of Fife's extensive criminal record. (PSI, pp.9-20.) Fife has thirteen prior felony convictions and fifteen prior misdemeanor convictions, as well as five cases that have yet to be adjudicated but show Fife failed to appear. (PSI, p.20.) His convictions include "crimes against people, property crimes, and crimes involving drugs and alcohol." (PSI, p.20.) The crimes against people include nine assault convictions, obstruction of an officer, and violation of a court order. (PSI, p.20.) The property crimes include theft, criminal impersonation, malicious mischief, taking a motor vehicle without permission, and possession of stolen property. (PSI, p.20.) The crimes involving drugs and alcohol include multiple DUIs and driving with a suspended license, as well as numerous controlled substance offenses, three of which cases have yet to be adjudicated. (PSI, p.20.) Additionally, Fife admitted to selling drugs in the past. (PSI, p.28.)

Fife has served six prison terms prior to his sentence in this case. (PSI, p.20.) He has gone through drug treatment two or three times. (PSI, p.30.) He has had numerous probation and parole violations for absconding and committing new crimes. (PSI, p.20.) Fife has been on community supervision in Washington as far back as 1998; in that time, he has had thirty-seven parole violations. (PSI, p.21.) Most recently, Fife was placed on supervision in March of 2018. (PSI, p.21.) Since then, he failed to report six times, was placed in custody for discretionary jail time or a new arrest four times, and has had eight parole violations issued. (PSI, p.21.) In fact, Fife "was on Washington DOC Community Custody when he committed the instant offense." (PSI, p.20.) By his own admission, he has been in a "recidivism cycle since [he] was [redacted] years old." (PSI, p.30.) Given his history, the PSI recommended incarceration. (PSI, p.31.)

The district court expressed “real concerns” about Fife. (Tr., p.35, Ls.15-19.) “What I’m convinced I’m dealing with is a very – very scary individual.” (Tr., p.36, Ls.8-9.) The district court noted that Fife has “impact[ed] society in a very harmful way consistently over decades” and that the court needed to “protect society moving forward.” (Tr., p.36, Ls.8-11.) The district court determined that “five years fixed is the minimum time that I can justify” and that fifteen years indeterminate was necessary “to have many years to keep [Fife] in custody beyond the fixed portion to protect the public that way.” (Tr., p.36, Ls.11-19.) The district court did not abuse its sentencing discretion.

Fife argues the district court abused its discretion by failing to exercise reason and imposing an excessive sentence in light of the “wealth of mitigating evidence,” including his “abusive childhood, his amenability to drug rehabilitation, and the impact of substance abuse throughout his life.” (Appellant’s brief, pp.5-7.) However, the district court specifically considered Fife’s childhood and substance abuse, which were documented in the PSI. (Tr., p.36, L.20 – 37, L.7; PSI, pp.21, 26-27, 30.) Nonetheless, the district court determined that the sentence imposed was necessary to achieve the objectives of criminal sentencing, in light of Fife’s criminal history and decades-long pattern of behavior. Fife has shown no abuse of discretion.

II.

Fife Has Failed To Show That The District Court Abused Its Discretion When It Denied His Rule 35 Motion For Reduction Of Sentence

A. Introduction

Fife asserts that the district court abused its discretion when it denied his Rule 35 motion for reduction of sentence. (Appellant’s brief, pp.7-8.) Fife has shown no abuse of discretion. Because he failed to support his motion with any new or additional information showing that the sentence imposed was excessive, the district court properly denied Fife’s Rule 35 motion.

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. Anderson, 163 Idaho 513, 517, 415 P.3d 381, 385 (Ct. App. 2015). Where a sentence is neither illegal nor excessive when pronounced, “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 motion.” State v. Burggraf, 160 Idaho 177, 180, 369 P.3d 955, 958 (Ct. App. 2016) (citing Huffman, 144 Idaho at 203, 159 P.3d at 840). “An appeal from the denial of a Rule 35 motion cannot be used as a vehicle to review the underlying sentence absent the presentation of new information.” Huffman, 144 Idaho at 203, 159 P.3d at 840.

C. Fife Failed To Show His Sentence Was Excessive In Light Of New Information

Fife’s Rule 35 motion requested a reduction in his sentence due to the “direct and collateral negative impact a sentence of the current nature places upon the Defendant and his future.” (R., p.118.) However, Fife provided no new information or support for his request, but merely asserted that at a hearing, additional evidence “will likely” be provided, including testimony from Fife, “possible other individuals, and potentially documentation in support” of Fife’s request. (R., p.118.) At the hearing on his motion, Fife described generally his efforts and goals in prison. (See Supp. Tr., p.4, L.16 – p.8, L.25.) Fife requested a reduction in his sentence so he could be able to get into a prison work camp. (Supp. Tr., p.9, L.12 – p.10, L.3.)

The district court did not abuse its discretion by denying Fife’s motion. Fife presented no evidence to support that his current sentence prevented him from being able to get into a prison work camp. (See Supp. Tr., p.10, L.19 – p.11, L.6.) Moreover, Fife’s efforts in prison did not somehow render the original sentence excessive. As the district court noted, “this was a horribly

serious offense given the weapons that were involved, the amount of heroin involved, the circumstances and Mr. Fife's prior criminal record." (Supp. Tr., p.11, Ls.7-12.)

Fife argues his sentence is excessive "in light of the new/additional mitigation evidence" presented with his Rule 35 motion. (Appellant's brief, p.8.) He asserts that information includes that Fife had not received any disciplinary issues and was taking advantage of rehabilitative efforts in prison. (Appellant's brief, p.8.) However, the district court is not required to grant leniency based on good behavior in prison, which is, after all, the expectation. See State v. Cobler, 148 Idaho 769, 773, 229 P.3d 374, 378 (2010); State v. Copenhaver, 129 Idaho 494, 496, 927 P.2d 884, 886 (1996) ("The district court further did not abuse its discretion in refusing to view Copenhaver's good behavior in prison between his sentencing and the Rule 35 hearing as a mitigating factor."). Fife has shown no abuse of discretion.

CONCLUSION

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

DATED this 3rd day of May, 2021.

/s/ Kacey L. Jones
KACEY L. JONES
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 3rd day of May, 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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KLJ/dd