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### State v. Sedillo Respondent's Brief Dckt. 48127

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IN THE SUPREME COURT OF THE STATE OF IDAHO

|                        |   |                                    |
|------------------------|---|------------------------------------|
| STATE OF IDAHO,        | ) |                                    |
|                        | ) | NO. 48127-2020                     |
| Plaintiff-Respondent,  | ) |                                    |
|                        | ) |                                    |
| v.                     | ) | Idaho County Case No. CR25-19-1671 |
|                        | ) |                                    |
| JACKIE SHAYDE SEDILLO, | ) |                                    |
|                        | ) | RESPONDENT'S BRIEF                 |
| Defendant-Appellant.   | ) |                                    |
| _____                  | ) |                                    |

Has Jackie Shayde Sedillo failed to show that the district court abused its discretion by sentencing him to thirty-three years, with eighteen years determinate for two counts of possession of stolen property, two counts of grand theft auto, one count of armed robbery, one count of eluding an officer, one count of unlawful possession of a firearm, and one count of exhibition of a deadly weapon?

## ARGUMENT

### Sedillo Has Failed To Show That The District Court Abused Its Discretion

#### A. Introduction

In September of 2019, Holly Ann Cedillo reported that her black Kia Sedona had been stolen, and that her debit card had been stolen and used twice at a Chevron gas station. (PSI, p. 2.) Authorities approached the Kia Sedona in the gas station parking lot and contacted Jackie Shayde Sedillo sitting in the front street. (PSI, p. 2.) When asked if he owned the vehicle, Sedillo said he did and pointed to the temporary tag in the back window. (PSI, p. 2.) Authorities advised Sedillo that the vehicle had been reported stolen, and asked if Sedillo had any weapons, as they noticed he had a black pistol near the center console. (PSI, p. 2.) Sedillo denied having a weapon, mumbled something, and put the Sedona in reverse. (PSI, p. 2.) Sedillo accelerated backward as an officer grabbed the steering wheel and attempted to stop Sedillo from leaving. (PSI, p. 2.) Sedillo dragged the officer thirty to forty feet before coming to a stop. (PSI, p. 2.) The officer released the steering wheel, and Sedillo sped off as authorities pursued. (PSI, p. 2.)

Sedillo drove down Highway 95 around 100 miles per hour as he passed other vehicles. (PSI, p. 2.) Sedillo entered Idaho County and outran authorities after they were unable to keep pace with Sedillo. (PSI, pp. 2-3.) A deputy stopped oncoming traffic and attempted to end the pursuit by parking his patrol vehicle in the northbound lane with his emergency lights activated. (PSI, p. 3.) Sedillo drove around the patrol vehicle and passed slower moving vehicles at speeds around 100 miles per hour. (PSI, p. 3.) Authorities then set up a spike strip to disable the Sedona, which later deflated the front passenger side tire after Sedillo drove through the spikes around eighty to 100 miles per hour. (PSI, p. 3.) One mile down the road, another deputy stopped approximately twenty vehicles of oncoming traffic as Sedillo approached their position. (PSI, p.

3.) The damaged tire began to come apart as pieces were flying from the wheel, and Sedillo brought the Sedona to a halt. (PSI, p. 3.) Sedillo briefly exited the Sedona and ran to the front of the vehicle. (PSI, p. 3.) The deputy in the area drove past the Sedona, and Sedillo ran back into the roadway. (PSI, p. 3.) The deputy observed a black handgun in Sedillo's right hand as he ran directly towards a 2000 BMW being driven by Gary King. (PSI, p. 3.) Sedillo ran to the driver's door, pointing the handgun at Gary as he used his left hand to open the door. (PSI, p. 3.) Sedillo grabbed Gary by his shirt and removed him from the BMW, throwing Gary to the ground. (PSI, p. 3.) Sedillo entered the BMW and drove southbound on Highway 95, and responding officers collided with the Sedona, which then struck the on-scene deputy's patrol vehicle. (PSI, p. 3.)

Gary King suffered injuries to his left knee and chest, and was transported to a local hospital. (PSI, p. 4.) Witnesses of the events around the BMW theft reported that they heard a gunshot, but authorities were unable to locate a casing from the firearm. (PSI, p. 4.) George and Stephanie Pinque reported that Sedillo drove toward them and pointed a handgun at them, and that they were in fear for their lives. (PSI, p. 4.)

The pursuit continued until authorities were unable to locate the stolen BMW due to traffic congestion. (PSI, p. 4.) While authorities searched for Sedillo, Tyran Pain reported that his work truck had been stolen. (PSI, p. 4.) Tyran reported that he heard the backup alarm on the truck beeping, and as he looked out the back of the residence, he saw the truck driving away and Gary King's BMW left in the driveway. (PSI, p. 4.) Authorities observed a bullet hole in the center console and front passenger seat of the BMW, and later located Sedillo driving the stolen 2003 Ford F350. (PSI, p. 4.) Sedillo used Idaho County Roads to elude officers, and later left the roadway, driving across several fields and eventually abandoning the F350 in Cottonwood Creek Canyon. (PSI, p. 4.) Sedillo fled on foot, and avoided arrest by hiding in the canyon until the

following morning. (PSI, p. 4.) Holly Cedillo gave permission to search the Kia Sedona, and authorities located Sedillo's Idaho Identification Card and two financial transactions cards, along with driver's licenses belonging to Holly Cedillo and Tracene Janda, and one financial transaction card belonging to Angel Cedillo. (PSI, pp. 4-5.)

The state charged Sedillo with one count of possession of stolen property, two counts of grand theft auto, one count of armed robbery, one count of eluding an officer with a firearm enhancement, one count of felon in possession of a firearm, three counts of aggravated assault, two counts of burglary, three counts of possession of stolen property, one count of battery with intent to commit a serious felony, and a persistent violator enhancement. (R., pp. 69-74.) Sedillo pleaded guilty to two counts of possession of stolen property, two counts of grand theft auto, one count of armed robbery, one count of eluding an officer, one count of unlawful possession of a firearm, and one count of exhibition of a deadly weapon, amended from aggravated assault. (R., pp. 187-192.) The state filed a second amended information, and agreed to dismiss the remaining charges, including the persistent violator enhancement. (R., pp. 187-192, 200-203.)

For count one, possession of stolen property, the district court sentenced Sedillo to two years determinate. (R., p. 233.) For count two, grand theft auto, the district court sentenced Sedillo to two years determinate, to run consecutive to the sentence imposed in Count one. (R., p. 233.) For count three, grand theft auto, the district court sentenced Sedillo to two years determinate, to run consecutive to counts one and two. (R., pp. 233-234.) For count eight, amended from count twelve, possession of stolen property, the district court sentenced Sedillo to two years determinate, to run consecutive to counts one, two and three. (R., p. 234.) For count six, unlawful possession of a firearm, the district court sentenced Sedillo to two years determinate, to run concurrent to the sentences imposed in counts one, two, three, and eight. (R., p. 234.) For count five, eluding an

officer, the district court sentenced Sedillo to five years determinate, to run consecutive to counts one, two, three and eight. (R., pp. 234-235.) For count four, armed robbery, the district court sentenced Sedillo to twenty years, with five years determinate, to run consecutive to counts one, two, three, five and eight. (R., p. 235.) For count seven, exhibition of a deadly weapon, the district court imposed six months in jail, with credit for time served since his arrest. (R., p. 235.) Sedillo filed a Rule 35 motion, which the district court denied, and then filed a timely appeal. (R., pp. 228-230, 238, 240-242.)

On appeal, Sedillo argues that “his sentence of thirty-three years, with eighteen fixed, is excessive and therefore an abuse of discretion.” (Appellant’s brief, p. 1.) Sedillo has failed to show that the district court abused its discretion by sentencing him to thirty-three years, with eighteen years determinate for two counts of possession of stolen property, two counts of grand theft auto, one count of armed robbery, one count of eluding an officer, one count of unlawful possession of a firearm, and one count of exhibition of a deadly weapon.

B. Standard Of Review

“Appellate review of a sentence is based on an abuse of discretion standard. Where a sentence is not illegal, the appellant has the burden to show that it is unreasonable and, thus, a clear abuse of discretion.” State v. Schiermeier, 165 Idaho 447, 451, 447 P.3d 895, 899 (2019) (internal quotations and citations omitted). A sentence of confinement is reasonable if it appears at the time of sentencing that confinement is necessary to accomplish the primary objective of protecting society and to achieve any or all of the related goals of deterrence, rehabilitation, or retribution applicable to a given case. Id. at 454, 447 P.3d at 902. “A sentence fixed within the limits prescribed by the statute will ordinarily not be considered an abuse of discretion.” Id. (internal quotations omitted). “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 (2019) (citation omitted).

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

The record shows the district court perceived its discretion, employed the correct legal standards to the issue before it, and acted reasonably and within the scope of its discretion.

At the sentencing hearing, the district court acknowledged that it has “the power to send [Sedillo] to prison for the rest of [his] life and lock the door and [he’d] never have the opportunity to be out,” but it was “not going to do that.” (Tr., p. 101, Ls. 22-25.) The district court stated that prior judges have “tried probation, [Sedillo] violated [his] probation on a number of occasions, and sometimes committ[ed] further felony charges. They put [Sedillo] through the rider program,” and “one of the consistent things that they tried to address are the controlled substance issues.” (Tr., p. 102, Ls. 19-25.) The district court acknowledged that “in the past it’s kind of been analysis of depression or anxiety and only recently really focused on the mania and the bipolar.” (Tr., p. 103, Ls. 3-5.) But there does “come a time when the judge’s goals of trying to rehabilitate somebody does have to take a back seat to the issue of protecting society from someone who is a proven risk and is capable of making some very poor decisions.” (Tr., p. 108, Ls. 8-13.) The district court stated that “these sentences really required here is going to be one that more serves the goals of punishment and protecting society than those of rehabilitation and deterrence.” (Tr., p. 103, L. 23 – p. 104, L. 1.) The district court stated that the defense recommendations for sentencing “would depreciate the seriousness of these various offenses,” and that Sedillo has “taken [himself] far beyond the possibility of retained jurisdiction and a specialty court.” (Tr., p. 104, Ls. 6-13.) The district court stated that Sedillo has “proven [himself] as a risk to society,” and although “it may be somewhat less if the prescription medications that [Sedillo has] found and

[is] now utilizing and the latest diagnosis of [his] condition,” the district court couldn’t “conclude at this point in time that it’s gone.” (Tr., p. 105, Ls. 4-12.) The district court concluded that “punishment is certainly appropriate in this case given the number of offenses that [Sedillo] committed in this relatively short period of time, multiple and serious offenses.” (Tr., p. 106, Ls. 19-23.)

Sedillo argues that the mitigating factors—age, mental health issues, substance abuse issues, acceptance of responsibility, remorse, employment opportunities, acceptance of responsibility and remorse—show an abuse of discretion. (Appellant’s brief, pp. 6-8.) In 2015, Sedillo’s LSI score was thirty two, placing him in the high risk to reoffend category. (PSI, p. 145.) His extensive criminal history consists of numerous felonies, and opportunities on probation and retained jurisdiction. (PSI, pp. 7-9, 132-137.) Following a period of retained jurisdiction, Sedillo was placed back on probation in two cases in January of 2019. (PSI, p. 9.) Sedillo then absconded supervision in August of 2019, and the state filed reports of probation violation. (PSI, p. 9.) The presentence investigator stated that Sedillo “has been given multiple opportunities to comply with conditions of community supervision, yet rather than embrace and take advantage of opportunities afforded to him, he has chosen not to conform.” (PSI, p. 11.) The presentence investigator stated that Sedillo has “committed multiple new felonies, placing himself and the surrounding communities in extreme danger,” and recommended that Sedillo “be sentenced to the physical custody of the Idaho Department of Correction.” (PSI, p. 12.)

The instant offenses placed the community at risk, and victimized numerous people. The sentences imposed provide proper protection to society, and appropriate punishment for the serious crimes committed against multiple people. The sentence provides proper deterrence to Sedillo and other possible offenders, and a lesser sentence would depreciate the seriousness of the instant

offense. Sedillo has failed to show that the district court abused its discretion by sentencing him to thirty-three years, with eighteen years determinate for two counts of possession of stolen property, two counts of grand theft auto, one count of armed robbery, one count of eluding an officer, one count of unlawful possession of a firearm, and one count of exhibition of a deadly weapon.

CONCLUSION

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

DATED this 13th day of May, 2021.

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

ZACHARI S. HALLETT  
Paralegal

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 13th day of May, 2021, served a true and correct copy of the attached RESPONDENT'S BRIEF to the attorney listed below by means of iCourt File and Serve:

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/s/ Kenneth K. Jorgensen  
KENNETH K. JORGENSEN  
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