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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 48144-2020
Plaintiff-Respondent,)	
)	KOOTENAI COUNTY NO. CR28-19-11203
v.)	
)	
YOLAUNDA SUE DAVIDSON,)	APPELLANT’S BRIEF
)	
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

After a jury found Yolaunda Davidson guilty of three drug-related offenses, the district court placed her on probation for two years, with an underlying sentence of four years, with two years fixed. Ms. Davidson appeals, and she argues the district court abused its discretion by imposing an excessive sentence.

Statement of Facts and Course of Proceedings

The State charged Ms. Davidson by information with possession of methamphetamine, possession of marijuana, and possession of drug paraphernalia. (R., pp.40–41.) She pled not

guilty and went to trial. (R., pp.43, 102–33.) After a two-day trial, the jury found her guilty of all three offenses. (R., pp.120–33, 134.)

At sentencing, Ms. Davidson and the State both recommended probation. (Tr., p.355, Ls.22–23, p.356, Ls.6–8.) Ms. Davidson requested an underlying sentence of one or one and one-half years fixed, plus one and one-half years indeterminate, and the State recommended an underlying sentence of four years, with two years fixed. (Tr., p.355, L.24–p.356, L.1, p.356, Ls.10–12.) The district court agreed with the parties’ probation recommendation, with an underlying sentence of four years, with two years fixed. (Tr., p.359, Ls.6–9.) The district court gave Ms. Davidson credit for time served for possession of marijuana and possession of drug paraphernalia. (Tr., p.362, Ls.2–9.)

Ms. Davidson timely appealed from the district court’s judgment of conviction. (R., pp.149–50, 155–57.)

ISSUE

Did the district court abuse its discretion when it imposed a unified sentence of four years, with two years fixed, upon Ms. Davidson, for possession of a controlled substance?

ARGUMENT

The District Court Abused Its Discretion When It Imposed A Unified Sentence Of Four Years, With Two Years Fixed, Upon Ms. Davidson For Possession Of A Controlled Substance

“It is well-established that ‘[w]here a sentence is within statutory limits, an appellant has the burden of showing a clear abuse of discretion on the part of the court imposing the sentence.’” *State v. Pierce*, 150 Idaho 1, 5 (2010) (quoting *State v. Jackson*, 130 Idaho 293, 294 (1997) (alteration in original)). Here, Ms. Davidson’s sentence does not exceed the statutory maximum. *See* I.C. § 37-2732(c) (seven-year maximum). Accordingly, to show the sentence

imposed was unreasonable, Ms. Davidson “must show that the sentence, in light of the governing criteria, is excessive under any reasonable view of the facts.” *State v. Strand*, 137 Idaho 457, 460 (2002).

“‘Reasonableness’ of a sentence implies that a term of confinement should be tailored to the purpose for which the sentence is imposed.” *State v. Adamcik*, 152 Idaho 445, 483 (2012) (quoting *State v. Stevens*, 146 Idaho 139, 148 (2008)).

In examining the reasonableness of a sentence, the Court conducts an independent review of the entire record available to the trial court at sentencing, focusing on the objectives of criminal punishment: (1) protection of society; (2) deterrence of the individual and the public; (3) possibility of rehabilitation; and (4) punishment or retribution for wrongdoing.

Stevens, 146 Idaho at 148. “A sentence is reasonable if it appears necessary to accomplish the primary objective of protecting society and to achieve any or all of the related goals of deterrence, rehabilitation, or retribution.” *State v. Delling*, 152 Idaho 122, 132 (2011).

In this case, Ms. Davidson asserts the district court did not exercise reason and thus abused its discretion by imposing an excessive underlying sentence upon any reasonable view of the facts. Specifically, she contends the district court should have sentenced her to a lesser term of imprisonment in light of the mitigating factors. For example, Ms. Davidson’s goals were to stay sober and raise her daughter. (PSI,¹ p.18.) She had a [REDACTED] daughter that she called her “miracle.” (PSI, p.14.) She wanted to be a good role model for her. (PSI, p.18.) She was “trying [her] hardest being a single parent” and hoped to put this behind her to focus on her daughter. (Tr., p.357, Ls.22–25.) Ms. Davidson also wanted to go back to school to “better [her] daughter’s life.” (PSI, pp.14, 18.) In the meantime, Ms. Davidson worked full-time in housekeeping at a new hotel. (PSI, pp.14–15.) She was proud to be the first employee hired by

¹ Citations to the PSI refer to the thirty-two page electronic document with the confidential exhibits.

this hotel. (Tr., p.358, Ls.1–2.) She started this job soon after her pretrial release and remained employed throughout the case. (PSI, pp.14–15; Tr., p.356, Ls.15–22, p.358, Ls.1–3.) *See State v. Mitchell*, 77 Idaho 115, 118 (1955) (recognizing gainful employment as a mitigating factor); *see also State v. Shideler*, 103 Idaho 593, 594–95 (1982) (employment and desire to advance within company were mitigating circumstances). Maintaining employment was no simple task for her either. Ms. Davidson described her physical health as “not good”—she has a “spot on her brain” and has had seizures and a stroke. (PSI, pp.15–16.) She also had mental health issues, including PTSD, depression, and anxiety. (PSI, p.16.) Despite these challenges, Ms. Davidson was “willing to do whatever it takes just to clear this up,” including drug treatment and community service. (Tr., p.357, Ls.20–21; PSI, p.18.) Ms. Davidson submits this mitigating information supported a more lenient sentence. Therefore, she maintains the district court abused its discretion by imposing an excessive underlying sentence of four years, with two years fixed.

CONCLUSION

Ms. Davidson respectfully requests that this Court reduce her sentence as it deems appropriate. Alternatively, she respectfully requests that the Court remand this case to the district court for a new sentencing hearing.

DATED this 11th day of February, 2021.

/s/ Jenny C. Swinford
JENNY C. SWINFORD
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of February, 2021, I caused a true and correct copy of the foregoing APPELLANT'S BRIEF to be served as follows:

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/s/ Evan A. Smith
EVAN A. SMITH
Administrative Assistant

JCS/eas