4-6-2021

State v. Davidson Respondent's Brief Dckt. 48144

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO, Plaintiff-Respondent, v. YOLAUNDA SUE DAVIDSON, Defendant-Appellant.	)	NO. 48144-2020 Kootenai County Case No. CR28-19-11203 RESPONDENT'S BRIEF

Has Yolaunda Sue Davidson failed to show that the district court abused its sentencing discretion when it imposed a sentence of four years with two years determinate upon her convictions for possession of methamphetamine, possession of marijuana, and possession of drug paraphernalia, then suspended the sentence for a term of two years' supervised probation?

ARGUMENT

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

A. Introduction

During a traffic stop, Yolaunda Davidson agreed to allow a law enforcement officer to search her vehicle. (PSI, pp. 5-6.) The search yielded methamphetamine, marijuana, and a glass

pipe. (PSI, p. 6.) Davidson was charged with (1) possession of a controlled substance in violation of I.C. § 37-2732(c)(1), (2) possession of a controlled substance in violation of I.C. § 37-2732(c)(3), and (3) possession of drug paraphernalia in violation of I.C. § 37-2734A(1). (R., pp. 40-41.) She pled not guilty. (R., p. 43.) At trial, the jury found Davidson guilty of all three counts. (R., p. 134.) The district judge sentenced Davidson to four years' imprisonment, with two years determinate, and suspended execution of the sentence for a term of two years' supervised probation. (R., p. 149.)

Davidson timely appealed her sentence. (See R., pp. 149-51, 155-59, 165-70.)

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)). It is presumed that the fixed portion of the sentence will be the defendant's probable term of confinement. Id. (citing State v. Trevino, 132 Idaho 888, 980 P.2d 552 (1999)). 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. Davidson Has Shown No Abuse Of The District Court's 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, because the decision to release the defendant on parole is exclusively the province of the executive branch, 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. 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.'" Bailey, 161 Idaho at 895-96, 392 P.3d at 1236-37 (quoting State v. McIntosh, 160 Idaho 1, 8, 368 P.3d 621, 628 (2015)).

There "is no requirement that sentencing courts articulate the reasons for imposition of a particular sentence." State v. Magsamen, 167 Idaho 655, ___, 474 P.3d 1252, 1256 (Ct. App. 2020) (citing State v. Martinsen, 128 Idaho 472, 475, 915 P.2d 34, 37 (Ct. App. 1996)). "Where the sentencing court has set forth no reasons for imposition of a sentence, the appellate court draws its own impressions from the record and will affirm what it infers to be a reasonable exercise of sentencing discretion." Id. at ___, 474 P.3d at 1256-57.

The sentence imposed is reasonable. The district court properly considered the information in the PSI, the recommendations of counsel, Davidson's statement, and the evidence at trial. (See Tr., p. 358, L. 5 – p. 359, L. 4.) Davidson was not a first-time offender, with two prior felony

convictions and four prior misdemeanor convictions. (PSI, p. 11.) And she had never fully taken responsibility for the instant offenses, stating at the sentencing hearing, "I realize that this is just an unfortunate thing that has happened and I am willing to do whatever it takes just to clear this up." (Tr., p. 357, Ls. 19-21.) But recognizing Davidson's employment and role in providing for her minor daughter, the court granted the requested leniency of placing Davidson on probation. (See PSI, p. 18 (Davidson requesting to be placed on probation); Tr., p. 356, L. 15 – p. 357, L. 1 (defense counsel discussing Davidson's employment and daughter); Tr., p. 359, Ls. 6-9 (court placing Davidson on probation).)

Davidson argues that the district court abused its sentencing discretion by failing to appropriately consider Davidson's (1) goals and employment, (2) health issues, and (3) willingness to undergo treatment and do community service. (Appellant's brief, pp. 4-5.) Davidson is incorrect. As a threshold matter, the trial court is not obligated to impose a lighter sentence based on potential mitigating factors. See State v. Coffin, 146 Idaho 166, 171-72, 191 P.3d 244, 249-50 (Ct. App. 2008) (affirming sentence when trial court had stated that it had considered mitigating circumstances); State v. Ball, 149 Idaho 658, 663-64, 239 P.3d 456, 461-62 (Ct. App. 2010) (affirming sentence when the trial court had considered mitigating circumstances and decided they did not warrant a lesser sentence).

Contrary to Davidson's contention, the trial court appropriately considered the potential mitigating factors. First, this Court should reject the contention that a lesser sentence should have been imposed due to Davidson's goals and employment. (See Appellant's brief, pp. 3-4.) The fact that the court placed Davidson on probation evidences the consideration it gave to Davidson's goals and employment. (See PSI, p. 18; Tr., p. 356, L. 15 – p. 357, L. 1; p. 359, Ls. 6-9.) Further, this case is distinguishable from Mitchell and Shideler, the cases on which Davidson relies. (See

Appellant's brief, p. 4 (citing State v. Mitchell, 77 Idaho 115, 289 P.2d 315 (1955); State v. Shideler, 103 Idaho 593, 651 P.2d 527 (1982)).) In both Mitchell and Shideler, the defendants were first-time offenders. 77 Idaho at 118, 289 P.2d at 317; 103 Idaho at 595, 651 P.2d at 529. In contrast, Davidson had two prior felonies and four prior misdemeanors on her record before committing the instant offenses. (PSI, p. 11.) And in Mitchell, the defendant contested the court's decision not to place him on probation. See 77 Idaho at 118-19, 289 P.2d at 316-17. Here, the court placed Davidson on probation as she had requested, making Mitchell inapplicable.

Additionally, Davidson has not met her burden to show that the trial court erred by insufficiently considering her health issues, or her willingness to undergo treatment and do community service, which her counsel did not raise at sentencing. (See Tr., p. 356, L. 10 – p. 357, L. 16; State v. Quintana, 155 Idaho 124, 134, 306 P.3d 209, 219 (Ct. App. 2013) (rejecting defendant's argument that the trial court not discussing each mitigating factor meant that the court had insufficiently considered such factors).) The trial court stated that it had considered the information in the PSI, which addressed Davidson's health and willingness to undergo substance abuse treatment. (Tr., p. 358, Ls. 5-6; PSI, pp. 16-17.) And the court addressed Davidson's willingness to do community service, requiring Davidson to complete 100 hours of community service. (Tr., p. 361, L. 24 – p. 362, L. 1.)

CONCLUSION

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

DATED this 6th day of April, 2021.

/s/ Jennifer Jensen
JENNIFER JENSEN
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 6th day of April, 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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JJ/dd