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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 48215-2020
Plaintiff-Respondent,)	
)	
v.)	Ada County Case No. CR01-19-14986
)	
ANTHONY JOSEPH E. ALCALA,)	
)	RESPONDENT’S BRIEF
Defendant-Appellant.)	
_____)	

Has Anthony Joseph E. Alcala failed to show that the district court abused its discretion by sentencing him to an aggregate term of fifty years, with twenty years determinate for voluntary manslaughter and two counts of aggravated battery?

FACTS OF THE CASE AND COURSE OF THE PROCEEDINGS

In April of 2019, Anthony Joseph E. Alcala shot Natalie Martinez, Briana Dunn and Sonny Heidenreich during a physical altercation. (PSI, pp. 10-11, 343, 372-77, 407-20.) Medical staff of St. Alphonsus pronounced Briana Dunn deceased upon her arrival at the hospital, as she had

succumbed to her injuries from the gun shot. (PSI, p. 10.) Natalie Martinez and Sonny Heidenreich were also transported to St. Alphonsus to receive medical treatment. (PSI, p. 10.)

The state charged Alcalá with one count of murder in the second degree, two counts of aggravated battery, and a sentencing enhancement for use of a firearm or deadly weapon during the commission of a crime. (R., pp. 41-42.) Pursuant to a plea agreement, Alcalá pled guilty to an amended charge of voluntary manslaughter, two counts of aggravated battery, and the sentencing enhancement. (R., pp. 54-67.) For count one, voluntary manslaughter, enhanced by the use of a firearm or deadly weapon during the commission of a crime, the district court sentenced Alcalá to thirty years, with ten years determinate. (R., pp. 75-77.) For count two, aggravated battery, the district court sentenced Alcalá to ten years, with five years determinate, consecutive. (R., pp. 75-77.) For count three, aggravated battery, the district court sentenced Alcalá to ten years, with five years determinate, consecutive. (R., pp. 75-77.) Alcalá filed a Rule 35 motion, asking the district court to reduce the fixed portion of his sentence to a cumulative fifteen years. (R., pp. 81-82.) The district court denied Alcalá's Rule 35 motion. (R., pp. 86-89.) Alcalá filed a notice of appeal timely only from the denial of his Rule 35 motion. (R., pp. 86-89, 115-116.)

On appeal, Alcalá argues that "the district court abused its discretion when it sentenced Mr. Alcalá to an aggregate unified term of 50 years, with 20 years fixed." (Appellant's brief, p. 5.) Alcalá has failed to show that this Court has jurisdiction to consider his claim of error on appeal. Alternatively, he has failed to show the district court abused its discretion by sentencing him to an aggregate term of fifty years, with twenty years determinate for voluntary manslaughter and two counts of aggravated battery.

ARGUMENT

I.

This Court Lacks Jurisdiction To Consider Alcalá's Challenge To The Judgment Of Conviction

An appeal “may be made only by physically filing a notice of appeal with the clerk of the district court within 42 days from the date evidenced by the filing stamp of the clerk of the court on any judgment.” I.A.R. 14(a). “An appellant's failure to file a timely notice of appeal deprives the appellate court of jurisdiction and requires dismissal of the appeal.” State v. Schultz, 147 Idaho 675, 677, 214 P.3d 661, 663 (Ct. App. 2009). “Whether a court lacks jurisdiction is a question of law, over which this Court exercises free review.” State v. Krambule, 163 Idaho 264, 266, 409 P.3d 844, 846 (Ct. App. 2017).

The district court entered its judgment on March 6, 2020. (R., p. 75.) Alcalá's appeal was therefore due on or before April 17, 2020. Alcalá filed his notice of appeal on July 31, 2020 (R., p. 115), well over the 42-day jurisdictional limit.¹ This Court therefore lacks jurisdiction to consider Alcalá's appellate challenge to the judgment.

II.

Even If This Court Had Appellate Jurisdiction, Alcalá Has Failed To Show An Abuse Of Discretion

A. Introduction

Even if this Court has appellate jurisdiction to consider Alcalá's challenge to the judgment, he has failed to show any abuse of discretion. To the contrary, application of the correct legal standards and review of the record shows the sentences to be reasonable.

¹ The notice of appeal is timely from the district court's July 21, 2020, order denying Alcalá's Rule 35 motion. (R., p. 86.) Alcalá does not challenge that order on appeal, however. (See Appellant's brief.) Nor did the July 2, 2020, filing of the motion for Rule 35 relief (R., p. 81) toll the time for filing from the March 6, 2020, judgment.

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).

“If a sentence is within the statutory limits, a motion for reduction of sentence under Rule 35 is a plea for leniency, and we review the denial of the motion for an abuse of discretion.” State v. Huffman, 144 Idaho 201, 203, 159 P.3d 838, 840 (2007). 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. Alcala Has Shown No Abuse Of The District Court's Discretion

The sentences imposed are within the statutory limits of I.C. §§ 18-4007(1), 19-2520 & 18-908. 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 found that Alcala was [REDACTED] at the time of the crime, a “young man. Never married; no kids. High school dropout. Severely addicted to methamphetamine and marijuana and some also say opioids. With some significant mental illness issues, prior history of suicidal activity and intentions, prior psychiatric hospitalizations.” (Tr., p. 34, Ls. 1-7.) The district court stated Alcala “had declined to take his properly prescribed medicines, and instead was admittedly under the influence of methamphetamine, cocaine and marijuana at the time of this incident.” (Tr., p. 34, Ls. 7-10.) The district court stated that Alcala has made claims “at various times to have psychotic symptoms; including audio hallucinations, command hallucinations, commanding him to hurt or shoot other people.” (Tr., p. 34, Ls. 14-17.) The district court “made a particular note in the Intermountain Hospital medical records he was hospitalized from August 26th to 28th of 2018. He told the nurse at that time that he knows he will kill someone some day, but does not know how.” (Tr., p. 34, Ls. 17-21.) The district court stated that “this would have been roughly one and a half years before he actually did kill somebody. It was said at the Intermountain Hospital that he didn't have anybody specific in mind, but that he did know that he was going to kill somebody some day.” (Tr., p. 34, L. 22 – p. 35, L. 1.)

The district court stated that “late in the evening of April 14th, [Alcala] shot three people and killed one of them. With the history of significant substance abuse issues involving virtually every drug imaginable starting at about [REDACTED]. A history of selling drugs in elementary school and through junior high. Started a gang at the time.” (Tr., p. 35, Ls. 2-8.) The district

court noted that “Dr. Davidson found that even at this time he was deemed a moderate risk of future violence and at least a moderate risk of future criminal activity or behavior.” (Tr., p. 35, Ls. 8-10.) The district court acknowledged that “Dr. Davidson diagnosed him with schizoaffective bipolar disorder, which means that he has both anxiety-like and depressive-type symptoms coupled with psychotic or schizophrenic type activities going on in his mind. Basically detached from reality.” (Tr., p. 35, Ls. 11-15.) The district stated that “[w]e certainly know that abuse of methamphetamine causes schizophrenic-type things going on in your mind where you do lose a bit of touch with reality. You start being paranoid and things of that nature,” and “[i]f you have somebody who’s detached from reality and thinks that people are out to get him, who’s carrying a gun, you can see that that’s a prescription for one who says he knows he will kill somebody some day.” (Tr., p. 35, L. 20 – p. 36, L. 2.) The district court stated that is “exactly what happened,” and it’s “fair to say and it’s a fact that it’s his first criminal conviction, his first felony.” (Tr., p. 36, Ls. 3-5.)

The district court stated that Alcala has “accepted responsibility. He pled guilty, throws himself on the mercy of the court. Expresses remorse.” (Tr., p. 36, Ls. 6-8.) The district court stated that these “events have impacted the three victims, but also the ripple effect throughout their families and throughout society as well as – let’s say, the perpetrators for their involvement; Ms. Perez, Ms. McMurtrey-Winn, Mr. Alcala and rippled throughout their families as well.” (Tr., p. 37, Ls. 1-6.) The district court determined that “the sentence here is fair, just and reasonable given all the facts and circumstances of this case as well as the goals and objectives of sentencing outlined by the law.” (Tr., p. 38, Ls. 11-14.) The district court determined that Alcala “is a danger to the community, will continue to be a danger to the community. That this sentence is necessary

to protect society, to deter the defendant specifically and the public generally, and also needs meets the objectives of punishment, retribution.” (Tr., p. 38, Ls. 14-19.)

Alcala argues that the mitigating factors—substance abuse and mental health issues, difficult childhood, family support, acceptance of responsibility, remorse, lack of criminal history and his risk to reoffend—show an abuse of discretion. (Appellant’s brief, pp. 3-5.) Alcala’s argument does not show an abuse of discretion. His LSI score is 32, placing him in the high risk to reoffend category. (PSI, p. 23.) While in the Ada County Jail, Alcala was sanctioned for verbally labeling another inmate as a rat and a marked man. (PSI, p. 13.) Alcala reported that he sold drugs in elementary and middle school for money, and received several disciplinary actions for theft, gambling, fighting, dishonesty and attendance while at Borah High School. (PSI, pp. 49, 52.) The presentence investigator stated that “it is reasonable and appropriate for the protection of the public to provide Mr. Alcala the opportunity in a structured environment to address his identified risk and needs.” (PSI, p. 25.) In her victim impact statement, Toni Lantz, mother of Brianna Dunn and Natalie Martinez, stated that she feels “so empty inside, so dead, [and] so lifeless,” due to the loss of Brianna and the harm done to Natalie. (PSI, p. 2.) Toni explains that she “can’t seem to get the sound Bri was making out of [her] head in the last few seconds of her life. Holding [Brianna] in [her] arms, telling her to please hold on, help is coming. And then, the noise stopped, she stopped breathing.” (PSI, p. 2.) Toni “knew she was gone, but [she] tried to hold on to the little bit of faith that [she] had,” but her “worst nightmare became reality.” (PSI, p. 2.)

While this is Alcala’s first criminal conviction, he shot three young adults, resulting in the death of Brianna Dunn. The punishment factor, alone, justifies the aggregate sentence of fifty years, with twenty years determinate. Lesser sentences would gravely depreciate the seriousness of the instant offenses. The sentences imposed provide proper deterrence to Alcala, and other

possible offenders who are in a position to commit a violent crime that would result in loss of life. Alcala presents a risk to the community, and the sentences imposed provide proper protection to society. Alcala has failed to show that the district court abused its discretion by sentencing him to an aggregate term of fifty years, with twenty years determinate for voluntary manslaughter, enhanced by the use of a firearm or deadly weapon during the commission of a crime, and two counts of aggravated battery.

CONCLUSION

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

DATED this 6th day of August, 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 6th day of August, 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
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