

Uldaho Law

Digital Commons @ Uldaho Law

Not Reported

Idaho Supreme Court Records & Briefs

6-1-2021

State v. Chavez Respondent's Brief Dckt. 48304

Follow this and additional works at: https://digitalcommons.law.uidaho.edu/not_reported

Recommended Citation

"State v. Chavez Respondent's Brief Dckt. 48304" (2021). *Not Reported*. 7069.
https://digitalcommons.law.uidaho.edu/not_reported/7069

This Court Document is brought to you for free and open access by the Idaho Supreme Court Records & Briefs at Digital Commons @ Uldaho Law. It has been accepted for inclusion in Not Reported by an authorized administrator of Digital Commons @ Uldaho Law. For more information, please contact annablaine@uidaho.edu.

LAWRENCE G. WASDEN
Attorney General
State of Idaho

COLLEEN D. ZAHN
Deputy Attorney General
Chief, Criminal Law Division

MARK W. OLSON
Deputy Attorney General
P. O. Box 83720
Boise, Idaho 83720-0010
(208) 334-4534
E-mail: ecf@ag.idaho.gov

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 48304-2020
Plaintiff-Respondent,)	
)	Bannock County Case No.
v.)	CR03-19-12662
)	
ERIC CHAVEZ,)	RESPONDENT’S BRIEF
)	
Defendant-Appellant.)	
)	

Has Chavez failed to demonstrate that the district court abused its sentencing discretion when it imposed a unified seven-year sentence with five years fixed for methamphetamine possession upon its relinquishment of jurisdiction?

ARGUMENT

Chavez Has Failed To Demonstrate That The District Court Abused Its Sentencing Discretion

A. Introduction

In November 2019, officers were dispatched the Idaho State University student union building parking lot for a report of a disturbance. (R., p.12.) There, officers made contact with an individual who reported that Eric Chavez struck her. (Id.) Officers went to Chavez’s

apartment complex to speak with him. (Id.) There, officers observed Chavez and another individual standing on a stoop. (Id.) Chavez began walking away and one of the officers called out, "Police! Stop!" (Id.) Chavez turned and looked at the officer, who told him again to stop. (Id.) Chavez instead ran away. (Id.) Officers made contact with the other individual on the stoop, who nodded when asked whether Chavez struck the reporting party. (Id.)

Officers arrested Chavez shortly thereafter for resisting and obstructing an officer. (R., pp.12-13.) Incident to that arrest, an officer searched Chavez and recovered a syringe containing a crystalline residue. (R., p.13.) Field testing revealed the substance to be methamphetamine. (Id.) Chavez would later acknowledge to the presentence investigator that he had been using methamphetamine for two days straight and was under the influence of alcohol at the time of his arrest. (PSI, p.6.¹)

In Bannock County Case No. CR03-19-12662, the state charged Chavez with possession of methamphetamine and the persistent violator sentencing enhancement.² (R., pp.36-39.) Pursuant to an agreement with the state, Chavez pled guilty to the methamphetamine charge and the state dismiss the sentencing enhancement. (R., pp.66-75; 2/3/20 Tr., p.5, L.4 – p.9, L.1.) The state also agreed to concur with any sentencing recommendation of the PSI investigator. (2/3/20 Tr., p.5, Ls.10-12.)

At the sentencing hearing, the state recommended that the district court retain jurisdiction (5/4/20 Tr., p.13, L.14 – p.14, L.12), and Chavez recommended that the court place Chavez on probation (5/4/20 Tr., p.14, L.19 – p.15, L.17). The district court imposed a unified seven-year

¹ Citations to page numbers of the PSI refer to the page numbers of the electronic file containing the presentence investigation report and other documents.

² In a separate case that was not a part of the plea agreement in this case, Chavez was also charged with resisting and obstructing an officer and two counts of battery (Banner County Case No. CR-03-19-12602). (PSI, p.10.)

sentence with five years fixed, and retained jurisdiction. (R., pp.91-94; 5/4/20 Tr., p.16, L.17 – p.17, L.24.) However, less than two months after he was transferred to the rider facility, Chavez was removed from the rider program after violently attacking another inmate over a gambling debt. (PSI, pp.42, 44, 46.) The district court relinquished jurisdiction without a hearing, and ordered the originally imposed sentence to be executed. (R., pp.96-97.) Chavez timely appealed. (R., pp.99-101.)

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)). The abuse of discretion test looks to whether the district 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.” Lunneborg v. My Fun Life, 163 Idaho 856, 863, 421 P.3d 187, 194 (2018).

C. The District Court Acted Well Within 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). 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. Id. 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.” State v. Bailey, 161 Idaho 887, 895-96, 392 P.3d 1228, 1236-37 (2017) (quoting State v. McIntosh, 160 Idaho 1, 8, 368 P.3d 621, 628 (2015)). It is well established that the primary sentencing consideration is protection of society, and that all other factors must be subservient to that end. State v. Hunnel, 125 Idaho 623, 627, 873 P.2d 877, 881 (1994).

Chavez’s extensive criminal history warrants the sentence imposed. This was Chavez’s sixth felony conviction, having previously been convicted in California of second-degree robbery, felony obstruction of an officer, possession of a controlled substance, grand theft, and assault with a deadly weapon. (PSI, pp.7-10.) Chavez also has at least five prior misdemeanor convictions for offenses including obstructing officers and providing false identification. (PSI, pp.6-10.) Chavez’s presentence investigation report also reflects several unsuccessful attempts at community supervision. (PSI, p.11.) Chavez acknowledged to the presentence investigator that he absconded from probation a “couple of times.” (PSI, p.11.) It also appears that Chavez was on felony probation for grand theft at the time of his arrest in the present case. (PSI, pp.9-11.)

The presentence investigator opined that Chavez was a poor candidate for community supervision due to his attitude, his lack of housing and employment, his significant criminal history, and his need for treatment. (PSI, p.19.) The presentence investigator also noted that

Chavez was difficult to interview because he was argumentative. (Id.) Chavez scored a 42.0 on the LSI-R, which is well above the 31+ threshold for indicating a “high” risk of recidivism. (PSI, p.18.)

Despite all of this, the district court provided Chavez the opportunity to participate in the rider programming, and specifically stated at the sentencing hearing that it was “hopeful” that Chavez would do well on that program so his case and sentence could be re-evaluated. (5/4/20 Tr., p.17, Ls.11-15.) Chavez expressed an understanding that he would face the possibility of a five-year fixed sentence if he “mess[ed] up on the rider.” (5/4/20 Tr., p.18, L.9 – p.19, L.12.) However, despite this understanding, and less than two months after he was transferred to the rider program, Chavez attacked a fellow inmate over a gambling debt. (PSI, pp.42, 44.) Chavez attacked the victim and attempted to pull him off of his bunk. (PSI, p.44.) When he was unable to do so, Chavez struck the victim with a small wooden table. (Id.) After this, Chavez punched the victim several times in the head, and then pulled him off the bunk causing the victim to hit his head. (Id.) Chavez continued to punch the victim, who was then in the fetal position, until a correctional officer responded to the scene. (Id.) As a result of the attack, Chavez was removed from the retained jurisdiction program, and the Idaho Department of Correction recommended that the district court relinquish jurisdiction. (PSI, pp.42, 44, 46.) The correctional case manager provided that Chavez “is a risk to those around him and...is not a candidate for probation.” (PSI, p.47.)

On appeal, Chavez does not take issue with any of the stated analyses as set forth by the district court. (See Appellant’s brief, pp.3-6.) Nor does Chavez assert that the district court abused its discretion by relinquishing jurisdiction. (See id.) Instead, Chavez contends that the district court should have sentenced him to a lesser term of imprisonment in light of mitigating

factors, including his troubled childhood, his substance abuse, his mental health issues, and his amenability to treatment as evidenced by factors such as his decision to “move[] away from California in order to create a better life for himself.” (Id.) However, nothing in the record indicates that the district court failed to consider any of these things, or chose to disregard the ample information about these factors presented in the presentence investigation report. Instead, at the sentencing hearing, the court specifically stated that it had reviewed the presentence investigation report in making its sentencing determination, and in fact quoted from that report. (5/4/20 Tr., p.16, L.17 – p.17, L.1.) Further, Chavez’s contentions on appeal that his is amenable to treatment are questionable in light of his statement to the presentence investigator that he does not think he needs substance abuse treatment. (PSI, p.16.) Likewise, his contention that his move from California, where he was involved with gangs, to Idaho, demonstrated a willingness to try to change his behavior, is weakened by his request to the court for an earlier sentencing hearing date so he could return to California. (2/3/20 Tr., p.9, Ls.2-8.)

In light of all of the factors discussed above, the district court acted well within its discretion to impose a unified seven-year sentence with five years fixed for methamphetamine possession following its relinquishing of jurisdiction. Chavez has therefore failed to demonstrate that the district court abused its sentencing discretion. This Court should therefore affirm the judgment of conviction.

CONCLUSION

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

DATED this 1st day of June, 2021.

/s/ Mark W. Olson
MARK W. OLSON
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 1st day of June, 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:

KILEY A. HEFFNER
DEPUTY STATE APPELLATE PUBLIC DEFENDER
documents@sapd.state.id.us

/s/ Mark W. Olson
MARK W. OLSON
Deputy Attorney General

MWO/dd