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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 48311-2020
Plaintiff-Respondent,)	
)	ADA COUNTY
v.)	NO. CR01-19-50247
)	
CRAIG ROBERT FALK,)	APPELLANT'S BRIEF
)	
Defendant-Appellant.)	
<hr/>		

BRIEF OF APPELLANT

**APPEAL FROM THE DISTRICT COURT OF THE FOURTH JUDICIAL
DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE
COUNTY OF ADA**

HONORABLE JASON D. SCOTT
District Judge

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STATEMENT OF THE CASE

Nature of the Case

Craig Robert Falk, a Georgia resident with no criminal history, pled guilty pursuant to *North Carolina v. Alford*, 400 U.S. 25 (1970), to aggravated battery with a deadly weapon enhancement and burglary, despite having no recollection of his criminal conduct. The district court sentenced Mr. Falk to a unified term of twenty years, with nine years fixed, for the aggravated battery, and ten years fixed for the burglary. Mr. Falk appeals from his judgment of conviction, challenging his sentences as an abuse of discretion. While the facts of this case are certainly disturbing, Mr. Falk should not be imprisoned in Idaho, at taxpayer expense, when he was assessed as presenting a low risk to reoffend, and his criminal conduct can be easily traced back to his brother, whose ex-wife was the target of Mr. Falk's assault.

Statement of Facts and Course of Proceedings

Mr. Falk, a [REDACTED] resident of Georgia, traveled from Georgia to Idaho to help his brother, Roger Quinn. (*See* Tr., pp.19, 25, 46.) Mr. Falk believed Roger was suicidal on account of his divorce, and believed Roger's ex-wife, Karen Quinn, was abusing Roger and Karen's [REDACTED] daughter. (Tr., pp.19, 25.) This was not a delusion on Mr. Falk's part—rather, he was relying on information he received from his brother, after being estranged from him for over 30 years. (Tr., p.47; Conf. Exs., p.213.) A sheriff's detective testified that Mr. Falk said “[h]is brother had called him, spent hours on the phone with him talking about the abuse that his daughter was supposedly suffering, how psychotic Karen was, and . . . kind of painting Karen out to be a horrible person and abusive towards her daughter.” (Tr., p.26.) Based on what his brother had told him, Mr. Falk believed “[Karen] needed to stop.” (Tr., p.19.)

Mr. Falk, who had never before been to Boise, flew to Utah, and then drove to Boise, apparently in an effort to “scare” Karen. (Tr., p.19.) Mr. Falk claims that, without any urging from his brother, he drove to Karen’s house on the day after Thanksgiving, and waited for her to return home. (Tr., p.19.) He entered her garage and attacked her with a metal bar—in his words—a “prop.” (Tr., p.19.) Karen testified that when she saw Mr. Falk in her garage, she did not recognize him, but “thought he was there to kill me or something based on a contentious relationship I have with my ex-husband, who has threatened to kill me in the past.” (Tr., p.13, L.21 – p.14, L.14.) Karen sustained significant injuries. (Tr., p.21, Ls.12-22.) Roger and Karen’s [REDACTED] daughter witnessed the assault. (Tr., p.19, L.15 – p.20, L.2.)

When interviewed afterwards, Roger told the detective about his allegations of abuse, and said “he felt that Karen was psychotic and was having affairs, and just a whole host of items.” (Tr., p.28.) The detective was asked whether, in his opinion, Mr. Falk planned the assault against Karen himself, and the detective answered, “I believe he had the help of his brother.” (Tr., p.29.)

The State charged Mr. Falk by Information with aggravated battery with a deadly weapon enhancement and burglary. (R., pp.42-43.) Mr. Falk pled guilty pursuant to *North Carolina v. Alford*, 400 U.S. 25 (1970), without the benefit of a plea agreement. (Tr., p.16.) At the change of plea hearing, he told the district court he “was indeed involved in this horrifying event” but could not remember anything after it started. (Tr., p.18.) He said he had “no premeditated or malevolent intent at all.” (Tr., p.18.) The district court accepted Mr. Falk’s plea, and ordered that he undergo a psychiatric evaluation pursuant to Idaho Code § 19-2522. (Tr., pp.20-21; R., pp.73-74.) Following that evaluation, the district court sentenced Mr. Falk for aggravated battery with a deadly weapon enhancement to a unified term of twenty years, with nine years fixed. (Tr., p.53.) For burglary, the district court sentenced Mr. Falk to ten years fixed, to be served concurrently.

(Tr., p.53.) The judgment of conviction was entered on September 10, 2020, and Mr. Falk filed a timely notice of appeal. (R., pp.85-91.)

ISSUE

Whether the district court abused its discretion when it sentenced Mr. Falk, a [REDACTED] Georgia resident with no criminal history, to a unified term of twenty years, with nine years fixed, for aggravated battery, and ten years fixed for burglary.

ARGUMENT

The District Court Abused Its Discretion When It Sentenced Mr. Falk To A Unified Term Of Twenty Years, With Nine Years Fixed, For Aggravated Battery, And Ten Years Fixed For Burglary

The Idaho Supreme Court has held that where, as here, a district court imposes a sentence within statutory limits, the appellant “has the burden of showing a clear abuse of discretion on the part of the court imposing the sentence.” *State v. Jackson*, 130 Idaho 293, 294 (1997) (quotation marks and citation omitted). In order to succeed on appeal under this standard, an appellant “must establish that, under any reasonable view of the facts, the sentence was excessive considering the objectives of criminal punishment,” which are deterrence, the possibility of rehabilitation, punishment or retribution for wrongdoing, and the protection of society. *State v. Varie*, 135 Idaho 848, 856 (2001) (citation omitted). Mr. Falk can make the necessary showing, as his aggregate sentence was excessive considering these four objectives in light of the highly unusual circumstances of this case.

Mr. Falk’s sentence cannot be justified by the first objective of criminal punishment, which is deterrence of the individual and the public generally. *See Varie*, 135 Idaho at 856. Mr. Falk entered an *Alford* plea without the benefit of a plea agreement, as he accepted responsibility for his actions, but was adamant that he never intended to harm Karen and could not recall exactly what occurred. (Conf. Exs., p.28.) He told the presentence investigator:

My realization of violence is personally unresolved as the gap in my memory remains, and I simply don’t know what exactly happened. But what I do know is that I approached [Karen] with the intent to only scare her—to urge her to stop abusing my [REDACTED] niece, and to beseech her to stop terrorizing my brother as he neared suicidal surrender. Also, I do know, and forthrightly state, that physical violence was never planned nor ever intended at any point. And one final certainty is that I will never be involved in anything even close to violent behavior in the future.

(Conf. Exs., pp.15-16.) Indeed, Mr. Falk’s violent actions were entirely out of character for him, and appear to stem from some—clearly misplaced—loyalty to his brother and commitment to help out in a situation he completely misunderstood. (*See* Conf. Exs., p.16.) He believed his long-lost brother was suicidal, and understood from his brother that Karen “physically and mentally abused” their daughter, and was herself mentally unstable. (Conf. Exs., p.20.) Mr. Falk views himself as possessing “an acute sense of empathy” and appears to have acted without questioning his brother in any way, and without considering the consequences of his actions. (Conf. Exs., p.21.) Mr. Falk may have been uniquely vulnerable to his brother’s stories, based on his own life experience, but it is hard to imagine how he, or anyone in a similar situation, could have been deterred.

Mr. Falk’s sentence cannot be justified by the second objective of criminal punishment, which is the possibility of rehabilitation. *See Varie*, 135 Idaho at 856. It is not clear what rehabilitation Mr. Falk might need, apart from having no contact with his brother. Mr. Falk had no prior arrests, and this was his first felony conviction. (Conf. Exs., pp.9, 14.) Mr. Falk has no alcohol or drug problems, and no history of violence. (Conf. Exs., p.12.) Mr. Falk struggled with depression following his own divorce, and was hospitalized in Georgia on two prior occasions. (Conf. Exs., pp.9, 14.) At sentencing, Karen described the crime as “a horrific error in judgment that has affected so many people.” (Tr., p.37.) Karen’s statement is accurate. Mr. Falk made a horrific error in judgment in believing his brother without question, and trying in some distorted fashion to help out. He described himself as being “horrified, appalled, and utterly bewildered by [his] violent behavior.” (Conf. Exs., p.28.) But it is not clear how incarceration could possibly aid in Mr. Falk’s rehabilitation.

Mr. Falk's sentence also cannot be justified by the third objective of criminal punishment, which is punishment or retribution for wrongdoing. *See Varie*, 135 Idaho at 856. Mr. Falk was [REDACTED] when he committed the crimes at issue, and was on disability following a heart attack he suffered in 2013. (Conf. Exs., p.212.) Unless his sentence is reduced, he will likely die in prison. While his conduct is deserving of punishment, it should not deprive him of his freedom forever.

At sentencing, Karen spoke directly to Mr. Falk, saying: "Do you remember the first and only thing that I said to you that night, Mr. Falk? . . . I asked you if you were there to kill me as soon as I saw your face, before I even saw the weapon. Why would I say that? Because your brother threatened to kill me on multiple occasions, Mr. Falk, and he used you to try to do it. If only you understood that." (Tr., p.37.) It appears that Mr. Falk developed some understanding of how he was misled by his brother over the course of these proceedings. He apologized to Karen at sentencing, stating: "Any words are going to be grossly inadequate, but to [Karen] and [Karen's daughter], I am so very, very, very, very sorry." (Tr., p.50.) He continued:

Just three days ago, I had my attorney read to me Judge McDevitt's findings of fact [from Robert and Karen's divorce proceedings]. I heard things about my brother that left me stunned, stunned with the sudden revelation that Roger was not the person I thought he was. Oh, my God. Not that person at all. Not the lost brother that had finally found true meaning in his life through his love for [his daughter], but here was someone with a far more perverse agenda. Was I blinded by calculated emotional onslaught? Had I portrayed Mr. and Mrs. Quinn in their exact opposite roles? Oh, my God. To Mrs. Quinn and [her daughter], I am so very, very, very, very sorry.

(Tr., p.50.) This is a highly unusual case, but it appears the primary person responsible for Karen being attacked was neither charged nor convicted, and Mr. Falk may be considered, in some ways, a victim of his brother, too.

Finally, Mr. Falk's sentence cannot be justified by the fourth objective of criminal punishment, which is the protection of society. *See Varie*, 135 Idaho at 856. Mr. Falk was assessed as having a "very low level of psychopathy." (Conf. Exs., p.216.) He was determined to present a low risk of engaging in future general violence, and was determined to present a low risk to the public. (Conf. Exs., pp.113, 216-17.) While Mr. Falk could arguably present a continued risk to Karen, that risk would be lessened by the no-contact order that the district court entered (which is not challenged on appeal), and would surely be lessened even more if Mr. Falk returns to Georgia.

This is a very unusual case. While the crimes Mr. Falk committed were horrific, and will have a lasting impact on Karen and Karen and Roger's young daughter, a lengthy term of imprisonment is not warranted. The district court abused its discretion at sentencing, and should have suspended Mr. Falk's sentence or retained jurisdiction.

CONCLUSION

Mr. Falk respectfully requests that this Court reduce his sentence as it deems appropriate. Alternatively, he requests that the Court remand this case to the district court for a new sentencing hearing.

DATED this 25th day of March, 2021.

/s/ Andrea W. Reynolds
ANDREA W. REYNOLDS
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of March, 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

AWR/eas