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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,)	NOS. 48544-2021, 48545-2021 & 48546-2021
)	
v.)	Ada County Case Nos. CR01-17-7437, CR01-20-14901 & CR01-20-26633
)	
JESSICA JO WEST-DONEY,)	
)	
Defendant-Appellant.)	RESPONDENT’S BRIEF
)	

Has Jessica Jo West-Doney failed to show that the district court abused its discretion by declining to retain jurisdiction in all three cases?

ARGUMENT

West-Doney Has Failed To Show That The District Court Abused Its Discretion

A. Introduction

In March of 2017, Jessica Jo West-Doney broke into four storage units and stole a bicycle. (48544 PSI, pp. 3-4.) West-Doney rode the bicycle to a friend’s house, and took her friend’s truck without his permission. (48544 PSI, p. 4.) When authorities contacted her about the thefts she

identified herself as Jessica Fain two times, but her ID later revealed true identity. (48544 PSI, pp. 3-4.) Authorities conducted a search of the vehicle and found a black case inside West-Doney's purse, which contained two needles, a spoon, scissors, a white bottle and a clear bag with 0.8 grams of methamphetamine. (48544 PSI, p. 3.)

Under case number CR01-17-7437, the state charged West-Doney with one count of burglary, one count of possession of a controlled substance, one count of petit theft, one count of possession of drug paraphernalia, and one count of providing false information to law enforcement. (48544 R., pp. 30-31.) West-Doney pleaded guilty to one count of burglary, and the state agreed to dismiss the remaining charges and a separate criminal case. (48544 R., pp. 34, 36-42.) The district court sentenced West-Doney to five years, with two years determinate and retained jurisdiction. (48544 R., pp. 49-51.) Following a period of retained jurisdiction, the district court placed West-Doney on probation for a period of five years. (48544 R., pp. 55-58.)

In January of 2020, West-Doney broke into a residence belonging to Craig Hamlin's deceased mother, and filled a boat with property from inside the house. (48546 PSI, pp. 91-92.) West-Doney connected the boat to the vehicle she was driving, but the boat disconnected from the ball hitch and damaged the garage door of the house she had broken into, and the boat. (48546 PSI, pp. 91-92.) West-Doney then loaded a golf cart that was in the residence with photos and paintings, and drove the golf cart until the battery died. (48546 PSI, p. 92.) West-Doney left the golf cart at a school, and took the photos and paintings with her, as Johnny Allen picked her up in his truck. (48546 PSI, p. 92.)

In March of 2020, the state filed a motion for probation violation, as West-Doney had been charged with numerous crimes in CR01-20-12097 and CR01-19-45142. (48544 R., pp. 70-72.) The district court released West-Doney on her own recognizance, and on April 1, 2020, West-

Doney stole Iva Harris' green 2006 Kia Sportage, which contained Iva's purse, driver's license and \$160. (48544 R., p. 101; 48546 PSI, pp. 239, 248.) West Doney destroyed the ignition and spray painted half of the vehicle red. (48546 PSI, p. 248.) On April 3, 2020, West-Doney stole a 1997 Dodge pickup from Chris Atkinson's business. (48546 PSI, pp. 205-206, 271.) West-Doney drove the truck through the company's parking lot gate, damaging the vehicle and the fence. (48546 PSI, pp. 206, 271.) West-Doney drove the Dodge truck up to Table Rock until the vehicle got stuck. (48546 PSI, p. 206.) West-Doney then walked down from Table Rock and stole a white 2003 Toyota Tacoma from Jill Kronberg. (48546 PSI, p. 206.)

On April 5, 2020, West-Doney broke into James and Timothy Howell's residence and pickup truck. (48545 PSI, p. 7.) James woke up to West-Doney in his bedroom, and she threw change at him and ran out of the house. (48545 PSI, p. 7.) James and Timothy found tools that had been moved to the front door, and advised that West-Doney had gone through their truck and tried to take food and laundry detergent. (48545 PSI, p. 7.) Authorities accompanied James and Timothy outside to the front yard where an officer used a flashlight to find West-Doney hiding under a truck. (48545 R., p. 7.)

Under case number CR01-20-14901, the state charged West-Doney with two counts of burglary for entering the Howell residence and vehicle. (48545 R., pp. 19-20.) Under case number CR01-20-26633, the state charged West-Doney with one count of attempted grand theft, one count of grand theft, and one count of burglary for the crimes committed at Craig Hamlin's deceased mother's house. (48546 R., pp. 31-33.) The state also charged West-Doney with one count of grand theft for stealing Iva Harris' Kia Sportage, purse, ID and cash, one count of grand theft for stealing Jill Kronberg's truck, one count of grand theft for stealing Christopher Atkinson's truck,

and malicious injury to property for driving Christopher Atkinson's truck through his company's fence. (48546 R., pp. 31-33.)

In CR01-17-7437, the state filed an amended motion for probation violation, including the new offenses in CR01-20-14901 and CR01-20-26633. (48544 R., pp. 127-129.) West-Doney admitted to violating her probation, and the district court executed the underlying sentence of five years, with two years determinate and credit for 615 days served. (48544 R., pp. 133, 142-144.) The district court ordered that the sentence run concurrent with the sentences imposed in CR01-20-26633, and consecutive to the sentence imposed in CR01-20-14901. (48544 R., p. 143.)

In CR01-20-14901, West-Doney pleaded guilty to one count of burglary, and the district court sentenced her to six years, with one year determinate and credit for two days served. (48545 R., pp. 34, 40-42.) The district court ordered that the sentence run consecutive to those imposed in CR01-17-7437 and CR01-20-26633. (48545 R., pp. 40-42.) In CR01-20-26633, West-Doney pleaded guilty to one count of grand theft, one count of burglary, and one count of malicious injury to property. (48546 R., pp. 46-49.) The district court sentenced her to fourteen years, with six years determinate for grand theft, ten years, with six years determinate for burglary, and five years determinate for malicious injury to property. (48546 R., pp. 55-58.) The district court credited West-Doney for 156 days served, and ordered that the sentences in CR01-20-26633 run concurrent to that imposed in CR01-17-7437, and that the sentence in CR01-20-14901 run consecutively. (48546 R., pp. 55-58.) As part of the global plea agreement, the state dismissed the remaining charges in CR01-20-14901 and CR01-20-26633, and the entirety of CR01-20-12097. (48545 R., pp. 31-33; 48546 R., pp. 48-49.) West-Doney then filed timely appeals in all three cases. (48544 R., pp. 146-148; 48545 R., pp. 44-46; 48546 R., pp. 60-62.)

On appeal, West-Doney argues that “the district court abused its discretion by failing to retain jurisdiction in her three cases.” (Appellant’s brief, p. 1.) West-Doney has failed to show that the district court abused its discretion by declining to retain jurisdiction in all three cases.

B. Standard Of Review

The decision whether to retain jurisdiction is a matter within the sound discretion of the district court and will not be overturned on appeal absent an abuse of that discretion. State v. Lee, 117 Idaho 203, 205-06, 786 P.2d 594, 596-97 (Ct. App. 1990). The primary purpose of a district court retaining jurisdiction is to enable the court to obtain additional information regarding whether the defendant has sufficient rehabilitative potential and is suitable for probation. State v. Jones, 141 Idaho 673, 677, 115 P.3d 764, 768 (Ct. App. 2005). Probation is the ultimate goal of retained jurisdiction. Id. There can be no abuse of discretion if the district court has sufficient evidence before it to conclude that the defendant is not a suitable candidate for probation. Id.

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, 270, 429 P.3d 149, 158 (2018) (citing Lunneborg v. My Fun Life, 163 Idaho 856, 863, 421 P.3d 187, 194 (2018)).

C. West-Doney Has Shown No Abuse Of The District Court’s Discretion

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 disposition and sentencing hearing, the district court considered “four factors at [West-Doney’s] sentencing a disposition: protection of society, deterrence of crime, rehabilitation and punishment.” (12/16/2020 Tr., p. 23, Ls. 9-12.) The district court stated that this “is a drug issue and a criminal issue. The criminal issue is the willingness to put people and their property at risk.” (12/16/2020 Tr., p. 23, Ls. 15-18.) The district court noted that West-Doney “already had a Rider, though it hasn’t been recent,” and “the conduct here is deep and deserves imposition.” (12/16/2020 Tr., p. 23, Ls. 22-24.)

West-Doney argues that the mitigating factors—difficult childhood, substance abuse issues, mental health issues, willingness to overcome addiction, previous completion of a rider, enrollment in community college, and her landscaping business—show an abuse of discretion. (Appellant’s brief, pp. 6-9.) West-Doney’s argument does not show an abuse of discretion. Her 2017 LSI score was thirty at her initial sentencing, placing her in the moderate risk to reoffend category. (48544 PSI, p. 17.) West-Doney’s criminal history now consists of numerous felonies, two periods on probation, and a period of retained jurisdiction. (48544 PSI, pp. 5-6.) Her criminal conduct caused significant damage and loss of property to numerous people. (48544 PSI, pp. 85-103; 48545 PSI, pp. 11-14; 48546 PSI, pp. 16-20, 30-61, 212-213, 250-252, 285-294.) While on her previous rider, West-Doney received four verbal warnings and one written warning. (48544 PSI, p. 137.) She received alternative sanction for sleeping, and eventually received an infraction for the same behavior. (48544 PSI, pp. 137.)

West-Doney’s criminal conduct on probation shows that she is not amenable to community supervision, and that probation is failing to reform her criminal thinking. West-Doney presents a significant risk to the community, and execution of the sentences imposed provides appropriate protection to society. West-Doney’s conduct on probation shows that there is an undue risk that

she will reoffend if not sentenced to a term of imprisonment. The district court properly concluded it did not need more information from a rider to determine West-Doney was not a suitable candidate for probation. West-Doney has failed to show that the district court abused its discretion by declining to retain jurisdiction in all three cases.

CONCLUSION

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

DATED this 31st 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 31st 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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