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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 48597-2021
Plaintiff-Respondent,)	
)	Ada County Case No. CR01-20-36188
v.)	
)	
CARL ROBERT BETANCOURT,)	
)	RESPONDENT'S BRIEF
Defendant-Appellant.)	
_____)	

Has Carl Robert Betancourt failed to show that the district court abused its sentencing discretion when it imposed a sentence of seven years with one and one-half years determinate upon his conviction for possession of methamphetamine?

ARGUMENT

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

A. Introduction

The state charged Betancourt with possession of methamphetamine, possession of drug paraphernalia, and driving under the influence of drugs. (R., pp. 29-30.) Betancourt pled guilty to possession of methamphetamine and DUI, and the state dismissed the drug paraphernalia count.

(R., pp. 32-33, 43-44.) The district court imposed sentences of seven years with one and one-half years determinate for the felony and six months for the misdemeanor, to run concurrently with each other and with a previously imposed sentence. (R., pp. 51-54.) Betancourt filed a timely notice of appeal. (R, pp. 56-57.)

Betancourt claims the district court abused its sentencing discretion “in light of the mitigating factors, including his troubled childhood, his substance abuse and its longstanding impact on his life, and the fact that he has gainful employment upon release.” (Appellant’s brief, pp. 4-7.) Betancourt has not demonstrated an abuse of discretion on the record.

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

C. Betancourt 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)).

At sentencing, the district court noted Betancourt’s “significant criminal history.” (Tr., p. 21, L. 24 – p. 22, L. 1.) The court found “a very significant drug problem” with “very early onset” indicating “persistent and sustained drug dependence.” (Tr., p. 22, Ls. 7-10.) Considering Betancourt’s need for intensive treatment of his drug abuse and a mental health screening, the district court imposed sentences of seven years with one and one-half years determinate for the felony and six months for the misdemeanor, concurrent with the previously imposed grand theft sentence. (Tr., p. 23, L. 12 – p. 24, L. 19.)

The record supports the district court’s exercise of discretion. Betancourt’s record consisted of nine prior felonies and many misdemeanors. (PSI, pp. 191-99.) He had a lengthy

history of rehabilitation efforts, including extensive drug abuse treatment. (PSI, pp. 117-18, 120, 199-200, 206-07.) He was paroled after his last felony convictions on May 12, 2020, did not perform well on parole, and committed the instant offenses by possession and driving under the influence of methamphetamine approximately three months later. (PSI, pp. 5, 114-16, 198.) The district court's determination that Betancourt serve a year-and-a-half before being parole eligible, and then providing a longer period of parole to address Betancourt's criminality and substance abuse, is reasonable.

Betancourt claims "[p]roper consideration" of his troubled childhood, his substance abuse, and available employment demonstrate the district court abused its sentencing discretion. (Appellant's brief, pp. 4-7.) However, the record shows that the district court considered Betancourt's history, including his history of substance abuse, when imposing sentence. Specifically, the court considered the "very early onset" of drug abuse and Betancourt's "persistent and sustained drug dependence." (Tr., p. 22, Ls. 7-10.) More relevant to the district court than the childhood of [REDACTED] Betancourt was his more recent history of criminal activity and failed parole. (Tr., p. 21, L. 24 – p. 22, L. 6; p. 22, L. 11 – p. 23, L. 17; see PSI, pp. 112-17, 191-200.) Although Betancourt's prior employer was willing to rehire him, he had worked there only a little over three months, which coincided with his period of parole. (PSI, pp. 112 (crimes committed September 9, 2020), 114-15 (paroled May 12, 2020), 276 (worked from May 19, 2020, to August 27, 2020).) His overall work record is spotty. (PSI, pp. 204-05.) Whatever mitigating effect Betancourt's childhood, drug addiction, and potential employment have, they do not show the district court's sentence to be unreasonable. He has failed to show an abuse of sentencing discretion.

CONCLUSION

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

DATED this 12th day of July, 2021.

/s/ Kenneth K. Jorgensen
KENNETH K. JORGENSEN
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 12th day of July, 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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/s/ Kenneth K. Jorgensen
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