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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,)	NO. 48837-2021
)	
v.)	TWIN FALLS COUNTY
)	NO. CR42-19-10602
KENDRICK DEWAYNE ROBINSON,)	
)	APPELLANT’S BRIEF
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

After a jury found Kendrick Robinson guilty of trafficking in methamphetamine, the district court sentenced him to thirty years, with ten years fixed. Mr. Robinson appeals, and he argues the district court abused its discretion by imposing an excessive indeterminate term.

Statement of Facts and Course of Proceedings

The State alleged by criminal complaint that Mr. Robinson committed the crime of trafficking in methamphetamine (over 400 grams). (R., pp.13–14.) According to the affidavit in support, this charge arose from a traffic stop and subsequent search of a rental car driven by Mr. Robinson. (R., pp.15–19.) After a preliminary hearing, the magistrate judge found probable

cause for the offense and bound Mr. Robinson over to district court. (R., pp.50–51, 52.) The State charged Mr. Robinson by information with trafficking in methamphetamine. (R., pp.54–55.)

Mr. Robinson pled not guilty and exercised his right to a jury trial. (R., pp.57, 180–88, 207–08.) At the end of a three-day trial, the jury found him guilty. (R., p.227.)

At sentencing, the State recommended a sentence of thirty years, with fifteen years fixed. (Tr.,¹ p.11, Ls.2–4.) Mr. Robinson requested the district court impose no more than the mandatory minimum of ten years fixed. (Tr., p.16, Ls.7–10.) The district court sentenced Mr. Robinson to thirty years, with ten years fixed. (Tr., p.21, L.21–p.22, L.1.) Mr. Robinson timely appealed from the district court’s judgment of conviction. (R., pp.256–58, 264–66.)

ISSUE

Did the district court abuse its discretion when it sentenced Mr. Robinson to thirty years, with ten years fixed, for trafficking in methamphetamine?

ARGUMENT

The District Court Abused Its Discretion When It Sentenced Mr. Robinson To Thirty Years, With Ten Years Fixed, For Trafficking In Methamphetamine

“It is well-established that ‘[w]here a sentence is within statutory limits, an appellant has the burden of showing a clear abuse of discretion on the part of the court imposing the sentence.’” *State v. Pierce*, 150 Idaho 1, 5 (2010) (quoting *State v. Jackson*, 130 Idaho 293, 294 (1997) (alteration in original)). Here, Mr. Robinson’s sentence does not exceed the statutory maximum. *See* I.C. § 37-2732B(4)(c), (d) (ten-year mandatory minimum fixed term, maximum of life). Accordingly, to show the sentence imposed was unreasonable, Mr. Robinson “must

¹ There are six separate transcripts on appeal, but the only one cited here is the transcript of the sentencing hearing, held on May 3, 2021. It will be cited as “Tr.”

show that the sentence, in light of the governing criteria, is excessive under any reasonable view of the facts.” *State v. Strand*, 137 Idaho 457, 460 (2002).

“‘Reasonableness’ of a sentence implies that a term of confinement should be tailored to the purpose for which the sentence is imposed.” *State v. Adamcik*, 152 Idaho 445, 483 (2012) (quoting *State v. Stevens*, 146 Idaho 139, 148 (2008)).

In examining the reasonableness of a sentence, the Court conducts an independent review of the entire record available to the trial court at sentencing, focusing on the objectives of criminal punishment: (1) protection of society; (2) deterrence of the individual and the public; (3) possibility of rehabilitation; and (4) punishment or retribution for wrongdoing.

Stevens, 146 Idaho at 148. “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. Delling*, 152 Idaho 122, 132 (2011).

In this case, Mr. Robinson asserts the district court did not exercise reason and therefore abused its discretion by imposing an excessive sentence under any reasonable view of the facts. Specifically, he contends the district court should have sentenced him to a lesser indeterminate term or no indeterminate term at all light of the mitigating factors, including his employment history, minor criminal record, lack of substance abuse or mental health issues, and many letters of support.

First, Mr. Robinson’s positive employment history supports a more lenient indeterminate term. *See State v. Mitchell*, 77 Idaho 115, 118 (1955) (recognizing gainful employment as a mitigating factor); *see also State v. Shideler*, 103 Idaho 593, 594–95 (1982) (employment and desire to advance within company were mitigating circumstances). From March 2005 until March 2011, Mr. Robinson worked as a manager at McDonalds. (Presentence Investigation

Report (“PSI”),² p.25.) Then, from June 2011 until July 2018, he worked as a manager at Food4Less. (PSI, p.25.) He left that job to start his own beauty supply store, which he had yet to open. (PSI, p.25.) Nonetheless, this positive employment history of two long-term managerial roles justifies a shorter indeterminate term.

Second, the lack of a serious criminal record warrants a lesser indeterminate sentence for Mr. Robinson. “The absence of a criminal record is a mitigating factor that courts consider.” *State v. Miller*, 151 Idaho 828, 836 (2011). “It has long been recognized that “[t]he first offender should be accorded more lenient treatment than the habitual criminal.” *State v. Hoskins*, 131 Idaho 670, 673 (Ct. App. 1998) (alteration in original) (quoting *State v. Nice*, 103 Idaho 89, 91 (1982)). About seventeen years ago, Mr. Robinson was convicted of robbery, a felony offense. (PSI, pp.26–27.) He also received some misdemeanor and infraction convictions in 2008, 2011, and 2012, but no other serious felony offenses. (PSI, pp.26–27.) After a 2012 case for driving with a suspended license, Mr. Robinson had no issues with the law until the instant offense. (PSI, p.27.) This minor criminal record supports a lesser indeterminate sentence.

Moreover, Mr. Robinson’s lack of substance abuse or mental health issues shows that he can be a contributing member of society after he serves the mandatory minimum sentence. Mr. Robinson reported no mental health issues. (PSI, p.23.) Although his parents both abused drugs, and he described his childhood as difficult, (PSI, p.23), Mr. Robinson denied having any alcohol-related problems, and he reported that he only tried marijuana once as a teenager. (PSI, p.24.) He enjoyed spending time with his family and his children. (PSI, p.25.) These positive characteristics, including the lack of substance abuse or mental health issues, should have been given more weight at sentencing.

² Citations to the PSI refer to the sixty-three-page electronic document with the confidential exhibits.

Finally, the numerous support and good character letters from Mr. Robinson's family, friends, employers, co-workers, and jail staff stand in favor of mitigation. *Shideler*, 103 Idaho at 594–95 (family support and good character as mitigation); see *State v. Ball*, 149 Idaho 658, 663–64 (Ct. App. 2010) (district court considered family and friend support as mitigating circumstance). Mr. Robinson provided eighteen letters of support. (PSI, pp.43–51, 61–63, 245, 249–55.) Mr. Robinson's girlfriend, who had known him for ten years, wrote about his good character and the impact of this case on their family. (PSI, pp.43–44.) Mr. Robinson's ex-girlfriend, who had known him for twenty years, similarly wrote of his good character as “a stand up guy” and an “amazing father, brother, and co parent.” (PSI, p.45.) Mr. Robinson's cousin wrote that Mr. Robinson was a hard-worker and believed that he had deep remorse for his actions. (PSI, p.46.) Five other family members or friends wrote letters of support describing Mr. Robinson's admirable character and positive attributes. (PSI, pp.48–51, 61.) Further, a long-term friend wrote that he considered Mr. Robinson to be a brother and discussed Mr. Robinson's generosity and family values. (PSI, pp.62–63.) Mr. Robinson's sister also submitted a letter asking for leniency. (R., p.245.) Likewise, the mother of Mr. Robinson's daughter asked for leniency and explained how difficult his incarceration was on her family. (R., p.253.) Moreover, three former co-workers/managers wrote that Mr. Robinson was very dedicated to his job, reliable and hardworking, and a good role model. (R., pp.249, 251, 252.) In addition, Mr. Robinson provided a four letters of support from employees at the Jerome County Sheriff's Office, including two sergeants. (PSI, p.47; R., pp.250, 255, 254.) In fact, one sergeant wrote that he had never written a letter of a support before, in nearly twenty years of working with inmates. (R., p.255.) He described Mr. Robinson as a model inmate and a strong candidate

for rehabilitation. (R., p.255.) These many letters of support and good character warrant a shorter indeterminate term.

In sum, Mr. Robinson maintains the district court did not exercise reason and thus abused its discretion by imposing an excessive sentence. He contends proper consideration of the mitigating factors in his case supported a more lenient indeterminate term.

CONCLUSION

Mr. Robinson respectfully requests this Court reduce his indeterminate sentence as it deems appropriate. In the alternative, he respectfully requests this Court vacate his judgment of conviction and remand this case to the district court for a new sentencing hearing.

DATED this 20th day of September, 2021.

/s/ Jenny C. Swinford
JENNY C. SWINFORD
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of September, 2021, I caused a true and correct copy of the foregoing APPELLANT'S BRIEF to be served as follows:

KENNETH K. JORGENSEN
DEPUTY ATTORNEY GENERAL
E-Service: ecf@ag.idaho.gov

/s/ Evan A. Smith
EVAN A. SMITH
Administrative Assistant

JCS/eas