

Uldaho Law

Digital Commons @ Uldaho Law

Not Reported

Idaho Supreme Court Records & Briefs

10-26-2021

State v. Davis Appellant's Reply Brief Dckt. 48569

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

Recommended Citation

"State v. Davis Appellant's Reply Brief Dckt. 48569" (2021). *Not Reported*. 7285.
https://digitalcommons.law.uidaho.edu/not_reported/7285

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.

ERIC D. FREDERICKSEN
State Appellate Public Defender
I.S.B. #6555

KILEY A. HEFFNER
Deputy State Appellate Public Defender
I.S.B. #10999
322 E. Front Street, Suite 570
Boise, Idaho 83702
Phone: (208) 334-2712
Fax: (208) 334-2985
E-mail: documents@sapd.state.id.us

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,)	NO. 48569-2021
)	
v.)	BOISE COUNTY NO. CR08-19-1091
)	
SHAYNA RELANE DAVIS,)	APPELLANT'S REPLY BRIEF
)	
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

On appeal, Ms. Davis asserts the district court abused its discretion by imposing an excessive sentence. In her Appellant's brief, Ms. Davis argued that the district court should have withheld judgment, imposed a suspended sentence, or imposed a lesser sentence, in light of the mitigating factors in her case, including her mental health issues, remorse, lack of a criminal record, and family support.

In its Respondent's brief, the State argued that the district court did not abuse its sentencing discretion, and contended that the mitigating factors in Ms. Davis's case did not warrant a lesser sentence.

This Reply brief is necessary to clarify the facts underlying a statement in the Respondent's brief.

Statement of the Facts and Course of Proceedings

Ms. Davis articulated the relevant facts and proceedings in the Appellant's Brief. They are not repeated here, except as necessary to clarify the record.

ISSUE

Did the district court abuse its discretion when it imposed a unified sentence of fourteen years, with three years fixed, upon Ms. Davis for grand theft?

ARGUMENT

The District Court Abused Its Discretion When It Imposed A Unified Sentence Of Fourteen Years, With Three Years Fixed, Upon Ms. Davis For Grand Theft

In this Reply brief, Ms. Davis seeks to clarify the facts underlying one statement in the Respondent's brief. In the Respondent's brief, the State said:

The district court also considered Davis's expression of remorse. However, the court gave this factor minimal weight because Davis had rationalized and justified her behavior by blaming her ex-husband, her stress, and her mental health for her decision making. The court also correctly concluded that this factor did not change the fact that she had devised and implemented a "sophisticated system" to perpetrate and hide her crimes. The court also noted Davis's choice not to address the court during the sentencing hearing.

(Resp. Br., p.7.) Ms. Davis respectfully disagrees with the State's characterization of the district court's discussion. With respect to allocution, the district court actually stated: "Ms. Davis, you have the right to address the court before final sentencing. Is there anything you'd like to say?" (Tr., p.48, Ls.17-19.) After Ms. Davis said no, (Tr., p. 48, L.20), the district court proceeded with sentencing. Later, the district court stated:

I listened carefully to the arguments and the recommendations of counsel. And your own statements, if you had made any, but you basically did make a lot of statements, which were contained in the presentence report. *So I don't hold that against you if you didn't have anything here to say today.*

(Tr., p.51, Ls.12-17 (emphasis added).) As shown above, the district court did not view Ms. Davis's silence at sentencing in a negative light or consider her silence to indicate a lack of remorse. Therefore, the State's assertion that the court noted Ms. Davis's choice not to address the court at sentencing, and its implication that Ms. Davis lacked remorse, is incorrect.

Ms. Davis submits that the combination of mitigating factors in her case demonstrates that her sentence of fourteen years, with three years fixed, is objectively unreasonable for the reasons discussed in her Appellant's brief. Ms. Davis therefore submits that the district court did not exercise reason, and thus abused its discretion, by imposing an excessive sentence.

CONCLUSION

Ms. Davis respectfully requests that her judgment of conviction be vacated and her case be remanded to the district court with an instruction that that judgment be withheld, and that she be placed on probation. Alternatively, Ms. Davis requests her case be remanded to the district court with an order that the imposed sentence be suspended for a period of probation. Alternatively, she requests that this Court reduce her sentence as it deems appropriate.

DATED this 26th day of October, 2021.

/s/ Kiley A. Heffner
KILEY A. HEFFNER
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of October, 2021, I caused a true and correct copy of the foregoing APPELLANT'S REPLY 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

KAH/eas