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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 48660-2021
Plaintiff-Respondent,)	
)	
v.)	Ada County Case No. CR01-20-16581
)	
JUAN MIGUEL FLORES-RAMIREZ,)	
)	RESPONDENT’S BRIEF
Defendant-Appellant.)	
_____)	

Has Juan Miguel Flores-Ramirez failed to show that the district court abused its discretion by sentencing him to fifteen years, with five years determinate for aggravated battery and use of a firearm or deadly weapon during the commission of a crime?

ARGUMENT

Flores-Ramirez Has Failed To Show That The District Court Abused Its Discretion

A. Introduction

In May of 2020, Juan Miguel Flores-Ramirez violated an active protection order between him and his ex-wife, Blanca Murillo. (PSI, p. 1.) Flores-Ramirez entered Blanca’s residence,

engaged in a verbal argument with Blanca, and pulled out a loaded handgun. (PSI, p. 1.) Flores-Ramirez restrained Blanca and threatened to kill her, causing Blanca to fear for her life, as well as for the lives of her children. (PSI, p. 1.) Blanca attempted to take the gun from Flores-Ramirez, and Flores Ramirez fired a .22 caliber round above Blanca's [REDACTED] daughter's head while she was asleep. (PSI, p. 1.) Blanca sustained a cut on her finger while attempting to take the firearm from Flores-Ramirez. (PSI, p. 1.) Blanca's [REDACTED] daughter exited her bedroom after hearing Blanca call for her, and heard the shot. (PSI, p. 1.) Flores-Ramirez demanded the [REDACTED] daughter to come into the room and sit down, and held the firearm to Blanca's head and told the daughter he would kill Blanca if she called the police. (PSI, p. 1.) The daughter texted her boyfriend for assistance, and secured the firearm while Flores-Ramirez looked out the window as officers arrived. (PSI, p. 1.)

The state charged Flores-Ramirez with one count of first degree kidnapping, one count of first degree stalking, one count of aggravated assault, two counts of intimidating, impeding, or influencing the attendance of a witness, one count of injury to children, one count of use of a firearm or deadly weapon during the commission of a crime, and one count of unlawful entry. (R., pp. 52-55.) Flores-Ramirez pleaded guilty to one count of aggravated assault and one count of use of a firearm or deadly weapon during the commission of a crime, and the state agreed to dismiss the remaining charges. (R., pp. 69-70.) The district court sentenced Flores-Ramirez to fifteen years, with five years determinate and credit for 274 days served. (R., pp. 92-95.) Flores-Ramirez then filed a timely appeal. (R., pp. 97-98.)

On appeal, Flores-Ramirez argues that "the district court abused its discretion by imposing an excessive aggregate sentence." (Appellant's brief, p. 1.) Flores-Ramirez has failed to show that the district court abused its discretion by sentencing him to fifteen years, with five years

determinate for aggravated battery and use of a firearm or deadly weapon during the commission of a crime.

B. Standard Of Review

“Appellate review of a sentence is based on an abuse of discretion standard. Where a sentence is not illegal, the appellant has the burden to show that it is unreasonable and, thus, a clear abuse of discretion.” State v. Schiermeier, 165 Idaho 447, 451, 447 P.3d 895, 899 (2019) (internal quotations and citations omitted). A sentence of confinement is reasonable if it appears at the time of sentencing that confinement is necessary to accomplish the primary objective of protecting society and to achieve any or all of the related goals of deterrence, rehabilitation, or retribution applicable to a given case. Id. at 454, 447 P.3d at 902. “A sentence fixed within the limits prescribed by the statute will ordinarily not be considered an abuse of discretion.” Id. (internal quotations omitted). “In deference to the trial judge, this Court will not substitute its view of a reasonable sentence where reasonable minds might differ.” State v. Matthews, 164 Idaho 605, 608, 434 P.3d 209, 212 (2019) (citation omitted).

C. Flores-Ramirez Has Shown No Abuse Of The District Court’s Discretion

The sentence imposed is within the statutory limits of I.C. §§ 18-908 and 19-2520. 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 sentencing hearing, the district court stated the “offense in this case is a most serious offense. The aggravated assault with the use of a firearm certainly created unimaginable fear on behalf of the victim,” and “indisputable potential harm to the child who was almost hit by the bullet discharged from the firearm.” (Tr., p. 58, Ls. 7-13.) The district court stated the “impact

on the other children cannot be understated, particularly . . . the oldest daughter who had to confront [Flores-Ramirez] and see [him] point the gun at [her mom] and threaten to kill her if she reported it to the police.” (Tr., p. 58, Ls. 13-19.) The district court stated it “is a very serious crime, indeed, and one that reflects a real potential harm to the community.” (Tr., p. 58, Ls. 19-21.) The district court acknowledged that Flores-Ramirez is “emotional, feels deprived of a relationship that was important to him and appears to feel that [he has] been deprived of that relationship unjustly,” and expressed “concern about his danger to the public in the future and the danger to his family, specifically.” (Tr., p. 58, L. 22 – p. 59, L. 5.) The district court acknowledged that Flores-Ramirez “has a close and very important family,” and “a very nurturing relationship growing up with his family in Mexico with very good parents and a very good family. He obviously loves his children.” (Tr., p. 59, Ls. 6-12.)

The district court noted Flores-Ramirez “does suffer from mental health issues, which are likely somewhat treatable, particularly the depression,” but “as we’ve seen in this case, failure to attend to that completely and the volatile nature of his actions create real potential for harm.” (Tr., p. 59, Ls. 13-18.) The district court determined there needs to be “a long period of incarceration, and there needs to be a long period of indeterminate time to provide a future deterrence should he be paroled.” (Tr., p. 60, Ls. 2-5.)

Flores-Ramirez argues that the mitigating factors—mental health issues, statements of remorse, and lack of a significant prior criminal history—show an abuse of discretion. (Appellant’s brief, p. 4.) Flores-Ramirez’s argument does not show an abuse of discretion. While his criminal history is short, Flores-Ramirez was arrested in Illinois in 2001 for misdemeanor aggravated assault. (PSI, pp. 2-3, 7.) The presentence investigator stated Flores-Ramirez “[a]voided taking responsibility for crime; said he removed all items from his pockets, engaged in

a conversation with his ex-wife, and suddenly a loud noise was heard; [Flores-Ramirez] did not acknowledge restraining and/or threatening his ex-wife with a gun.” (PSI, p. 4.) The PSI noted that Flores-Ramirez has a “[p]oor attitude towards conviction.” (PSI, p. 4.) At the sentencing hearing, Flores-Ramirez stated he “understand[s] how bad it is to try to want to be with family because family was the only thing that I ever wanted. Unfortunately, [Blanca] had other plans. She used me. And she used me to go – to go to the house to help her with the kids when really she just only had other plans.” (Tr., p. 56, Ls. 1-7.)

Flores-Ramirez has minimized his conduct and placed blame upon his ex-wife, Blanca. Flores-Ramirez held a gun to Blanca’s head, threatened to kill her, and fired a round just inches above his sleeping daughter’s head. He then forced his oldest daughter to sit in the room of the altercation, and threatened to kill the mother of his children if the ██████████ called police. There are no grounds excusing or justifying Flores-Ramirez’s conduct, and a lesser sentence would depreciate the seriousness of the instant offense. His conduct caused and threatened harm, and he presents a significant risk to his family, and to society. Flores-Ramirez’s attitude towards the instant offenses and victims shows that the commission of another crime is likely, and the sentence imposed provides appropriate protection to the community. The sentence imposed provides appropriate punishment and deterrence. Flores-Ramirez has failed to show that the district court abused its discretion by sentencing him to fifteen years, with five years determinate for aggravated battery and use of a firearm or deadly weapon during the commission of a crime.

CONCLUSION

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

DATED this 1st day of October, 2021.

/s/ Kenneth K. Jorgensen
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Deputy Attorney General

ZACHARI S. HALLETT
Paralegal

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 1st day of October, 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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