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### State v. Rainier Respondent's Brief Dckt. 48745

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO	)	
	)	NO. 48745-2021
Plaintiff-Respondent,	)	
	)	Kootenai County
v.	)	Case No. CR28-20-7600
	)	
JACOB TAYLOR RAINIER	)	
	)	RESPONDENT'S BRIEF
Defendant-Appellant.	)	
_____	)	

Has Jacob Taylor Rainier failed to show that the district court abused its sentencing discretion when it imposed consecutive sentences of 180 days, 123 suspended for reckless driving and 365 days, 298 suspended, for possession of a controlled substance?

ARGUMENT

Rainier Has Failed to Show that the District Court Abused Its Discretion

A. Introduction

Following an argument over lost car keys, Jacob Taylor Rainier chased down the Volkswagen Golf driven by his girlfriend Alexis and carrying their child in common, 20-month-old L.A.K.R., striking the vehicle and causing injury to Alexis. (R., Vol. 2, pp. 139-140.) Seconds preceding the collision, Rainier, driving a Toyota Camry, aggressively passed another driver who

honked her horn and watched as Rainier slammed on his brakes, skid 50 feet, and crashed into the rear of the Volkswagen, which in turn collided with a third vehicle stopped at the red light. (R., Vol. 2, pp. 117, 141.) A Collision Reconstructionist verified that Rainier was travelling at a speed of approximately 35 miles per hour as he approached the Volkswagen and 14 miles per hour when he struck it. (R., Vol. 2, pp. 120-21.) The impact damaged the Volkswagen's exterior bumper, side door, and roof. (Prelim. Tr., p. 17, Ls. 11-15.) In the interior, the driver's seat broke off its track, the seatbelt harness holding L.A.K.R.'s car seat broke, and the car seat holding her was thrown askew. (Prelim. Tr., p. 17, Ls. 2-3; p. 19, Ls. 16-21; p. 20 L. 25 – p. 21, L. 2; p. 21, Ls. 16-21.) Following the impact, Alexis called 911 and crawled to the back of the Volkswagen, removing L.A.K.R. from her car seat. Rainier opened the car door and began pulling on the child's arms. (Prelim. Tr., p. 22, Ls. 5-13.) After observing Rainier exit his vehicle and attempt to pull the child out of the Volkswagen against Alexis' protests, the witness attempted to assist Alexis. (R., Vol. 2, p. 141.) The witness asked Rainier to calm down and he told her, "Shut the fuck up. I will fuck you up." (R., Vol. 2, p. 141.) The witness offered to take the child to her truck and Alexis handed L.A.K.R. over to the witness while Rainier continued to hold on to Alexis and grab at the child. The witness yelled at Rainier to stay away, believed he considered charging at her, said Rainier "looked and sounded like he was on drugs" while he continued to threaten both she and Alexis. (R., Vol. 2, p. 141.) Police arrived at the scene, separated Rainier from the women and L.A.K.R, handcuffed him, and eventually placed him in the rear of a patrol car after finding marijuana dab oil in his pocket. (R., Vol. 2, pp. 140-42.)

After reviewing the evidence and speaking with all the parties, police arrested Rainier for aggravated assault. (R., Vol. 2, p. 142.) Emergency Medical Services transported Alexis to the hospital for services, along with L.A.K.R. (R., Vol. 2, p. 140.)

The state charged Rainier with injury to a child and possession of a controlled substance. (R., Vol. 1, pp. 197-98.) Pursuant to a plea agreement the state amended the charges to reckless driving and possession of a controlled substance and Rainier pleaded guilty. (R., Vol. 2, pp. 101-02, 105-09.) The district court imposed a sentence of 180 days, 123 days suspended, with seven days credit for time served for reckless driving, and 365 days, 298 days suspended, with seven days credit for time served for possession of marijuana, to run consecutively. (R., Vol. 2, pp. 167-68.)

Rainier filed a timely notice of appeal within 42 days of Judgment. (R., Vol. 2, pp. 174-76, 189-93.)

Rainier challenges the district court's decision to impose consecutive sentences of 180 days, 123 suspended, and 365 days, 298 suspended. Rainier has failed to show an abuse of discretion.

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)). 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. Rainier Has Shown No Abuse of the 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)).

The district court’s factual finding and reasoning for its sentence show no abuse of discretion. The district found, in light of Rainier’s previous record of crimes including domestic battery and a subsequent conviction of reckless driving, Rainier is “a danger to the public.” (Tr., p. 31, Ls. 11-25). The district court was within sentencing limit guidelines and Rainier understood the possible punishments he faced when he pleaded guilty. (R., Vol. 2, pp. 106-107; Tr., p. 10, Ls. 4 – 18; p. 16, L. 14 – p. 17, L. 14.)

Rainier argues that the district court did not properly consider mitigating factors including his remorse, mental health, drug dependency, and his tough childhood. (Appellant’s Brief, pp. 4-5.) Rainier’s argument that “spending his days in jail will not help him, and will not further the goal of protecting society” is contrary to the record. (Appellant’s Brief, p. 5.)

As shown above, Rainier’s crimes were more egregious than the usual reckless driving, and created a great risk of harm to his girlfriend and child. Rainier has a history of convictions including willful concealment of goods, petit theft, battery, possession of a controlled substance with intent to manufacture or deliver, and two counts of inattentive or careless driving. (Conf. Docs., pp. 6-7.) The district court, concerned about Rainier’s criminal record and the danger he presented to the public, determined that a lengthy probation, with an underlying cumulative sentence of 545 days jail, 124 to serve with 421 suspended, was necessary. (Tr., p. 31, L. 11 – p. 32, L. 6.) If Rainier was in fact as amenable to treatment and remorseful as he claimed at sentencing,<sup>1</sup> the district court’s emphasis on probation was entirely reasonable. Because the record supports the district court’s sentence, Rainier has failed to show an abuse of discretion.

CONCLUSION

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

DATED this 21<sup>st</sup> day of October, 2021

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

MOLLY GARNER  
Paralegal

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<sup>1</sup> Rainier was not successful on probation. (R., Vol. 2, pp. 184-88, 199-07.)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 21<sup>st</sup> 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:

KIMBERLY A. COSTER  
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/s/ Kenneth K. Jorgensen  
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