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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 48837-2021
Plaintiff-Respondent,)	
)	
v.)	Twin Falls County Case No.
)	CR42-19-10602
)	
KENDRICK DEWAYNE ROBINSON,)	
)	RESPONDENT’S BRIEF
Defendant-Appellant.)	
_____)	

Has Kendrick Dewayne Robinson failed to show that the district court abused its discretion by imposing a twenty-year indeterminate period as part of his thirty-year sentence for trafficking in methamphetamine?

ARGUMENT

Robinson Has Failed To Show That The District Court Abused Its Discretion

A. Introduction

In October of 2019, authorities conducting a traffic stop found Robinson in possession of \$8,493 and 1,889.4 grams of methamphetamine. (PSI, pp. 19-20.) The state charged Robinson

with one count of trafficking in methamphetamine, which a jury later found Robinson guilty of. (R., pp. 54-55, 227.) The district court sentenced Robinson to thirty years, with ten years determinate, and Robinson filed a timely appeal. (R., pp. 256-258, 264-266.)

On appeal, Robinson argues that “the district court abused its discretion by imposing an excessive indeterminate term.” (Appellant’s brief, p. 1.) Robinson has failed to show that the district court abused its discretion by imposing a twenty-year indeterminate period as part of his thirty-year sentence for trafficking in methamphetamine.

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).

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. Robinson Has Shown No Abuse Of The District Court’s Discretion

The sentence imposed is within the statutory limits of I.C. § 37-2732B(a)(4)(C). 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 it is “impressed, in some ways, by the letters of support from Lieutenant or Sergeant Haus and the other persons in the jail talking about how well-behaved [Robinson is] and how [he’s] not a problem.” (05/03/2021 Tr., p. 17, Ls. 11-14.) Due to the mandatory minimum sentence, the district court stated it doesn’t “have the option to put [Robinson] on probation or put [him] back out in the community, which [he] basically just requested for.” (05/03/2021 Tr., p. 18, Ls. 10-12.) The district court noted Robinson has “a LSI of 20, which is low. [He doesn’t] have a large history. [He has] a robbery charge from 2003,” and received “78 days jail and 36-month probation. It does not outline what the overall sentence was after [he was] violated in 2004.” (05/03/2021 Tr., p. 18, Ls. 15-24.) The district court further noted Robinson’s “[v]andalism, battery of a spouse in 2011, which was a misdemeanor. [He] got seven days in jail and three years probation.” (05/03/2021 Tr., p. 19, Ls. 2-4.)

When discussing the sentencing factors the district court stated “[d]eterrence is a big one in this case as well as overall protection to society. A sentence has to be pronounced that serves as a deterrent to not only [Robinson], but to anybody else that may contemplate trafficking methamphetamine above 400 grams.” (05/03/2021 Tr., p. 20, Ls. 6-10.) The district court stated trafficking is “a very serious crime because methamphetamine is basically a scourge in the community. It affects negatively everybody that it comes in contact with, even remotely.”

(05/03/2021 Tr., p. 20, Ls. 11-14.) The district court credited Robinson “for the manner in which [he has] conducted [himself] while being incarcerated,” but “the mandatory minimum in this case of ten years is the appropriate period of time to be served before being eligible for parole.”

(05/03/2021 Tr., p. 21, Ls. 14-24.)

Robinson argues that the mitigating factors—employment history, minor criminal record, lack of substance abuse or mental health issues, and community support—show an abuse of discretion. (Appellant’s brief, pp. 3-6.) Robinson’s argument does not show an abuse of discretion. Robinson’s criminal history consists of a prior felony for robbery, and misdemeanor convictions for vandalism, inflicting corporal injury on a spouse, and driving with a suspended license. (PSI, pp. 26-27.) The presentence investigator stated that Robinson “himself denied committing the felony offense saying he was not aware of drugs being in the vehicle. However, he was not only found guilty of a trafficking of methamphetamine but was in possession of an excess of \$8400 which had the odor of narcotics.” (PSI, p. 29.)

Although Robinson does not have substance abuse issues himself, the 1,889.4 grams of meth he trafficked presented a significant risk to the community, and the sentence in this case provides appropriate protection to society. The indeterminate term of the sentence provides appropriate punishment to Robinson’s criminal conduct, and a lesser sentence would depreciate the seriousness of the instant offense. The twenty-year indeterminate term also provides an appropriate deterrent to Robinson, and other possible offenders. Robinson has failed to show that the district court abused its discretion by imposing a twenty-year indeterminate period as part of his thirty-year sentence for trafficking in methamphetamine.

CONCLUSION

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

DATED this 13th day of December, 2021.

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

ZACHARI S. HALLETT
Paralegal

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 13th day of December, 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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