

Uldaho Law

## Digital Commons @ Uldaho Law

---

Not Reported

Idaho Supreme Court Records & Briefs

---

10-12-2021

### State v. Laub Appellant's Brief Dckt. 48893

Follow this and additional works at: [https://digitalcommons.law.uidaho.edu/not\\_reported](https://digitalcommons.law.uidaho.edu/not_reported)

---

#### Recommended Citation

"State v. Laub Appellant's Brief Dckt. 48893" (2021). *Not Reported*. 7328.  
[https://digitalcommons.law.uidaho.edu/not\\_reported/7328](https://digitalcommons.law.uidaho.edu/not_reported/7328)

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](mailto: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,       | ) |                                  |
|                       | ) | NOS. 48893-2021 & 48894-2021     |
| Plaintiff-Respondent, | ) |                                  |
|                       | ) | TWIN FALLS COUNTY                |
| v.                    | ) | NOS. CR42-20-8812 & CR42-20-8813 |
|                       | ) |                                  |
| SARA MARIE LAUB,      | ) | APPELLANT'S BRIEF                |
|                       | ) |                                  |
| Defendant-Appellant.  | ) |                                  |
| _____                 | ) |                                  |

STATEMENT OF THE CASE

Nature of the Case

Sara Marie Laub pled guilty to two counts of accessory to aggravated battery in two separate cases. The district court imposed a sentence of five years, with four years fixed for one accessory charge, and a consecutive sentence of five years indeterminate for the second accessory charge. In this consolidated appeal, Ms. Laub argues that the district court abused its discretion by imposing excessive sentences. She submits the district court should have retained jurisdiction, or alternatively, imposed a lesser sentence.

## Statement of the Facts & Course of Proceedings

In early October 2020, Ms. Laub was a passenger in a car that was involved in a shooting. (PSI, pp.4-5, 28-30.) Ms. Laub and another woman, whom she refers to as her “sister,”<sup>1</sup> agreed to give a ride to two acquaintances, who said they needed to go speak with someone, and asked the two women to wait for them in a nearby parking lot. (PSI, pp.4-5; R., pp.5, 28-30.) After waiting for about fifteen minutes, Ms. Laub heard gunshots and decided that she and her sister should leave. (PSI, pp.4-5, 30.) As the women were leaving, the two acquaintances came running back and jumped in the back of the moving car. (PSI, pp.4-5, 30.) Ms. Laub and her sister eventually drove the acquaintances back to their homes. (PSI, pp.4-5, 30.) Ms. Laub was unaware that the two acquaintances were going to, and did, shoot someone. (PSI., pp.29-30.)

A few days later, Ms. Laub’s boyfriend contacted her to “come save him,” so she agreed to pick him up. (PSI, pp.5, 35.) Ms. Laub’s boyfriend did not tell her that he had shot a different person when he asked for a ride, or after she picked him up. (PSI, pp.5, 35-36.) Ms. Laub was arrested the next day and charged with one count of accessory to aggravated battery<sup>2</sup> in each of two different cases; one count for her involvement in the shooting by the two acquaintances (“first case”), and one count for her involvement in the shooting by her boyfriend (“second case”). (R., pp.8-15, 108-13.)

A joint preliminary hearing was held in November 2020 (*see generally* 11/20/20 Tr.), and upon finding probable cause for the charged offenses, the magistrate judge bound Ms. Laub over to district court. (R., pp.39-40, 43-45, 137-38, 141-43; 11/20/20 Tr., p.43, L.24 – p.46, L.16.)

---

<sup>1</sup> Ms. Laub refers to the other woman, Kiara Metcalf, as her sister. (PSI, p.4; 11/20/20 Tr., p.9, Ls.16-17.) However, it appears that the women are close friends rather than biological sisters. (*See* PSI, p.6.)

<sup>2</sup> The State eventually amended both complaints, changing only the language describing the offenses. (R., pp.21-22, 120-22.)

In March 2021, Ms. Laub pled guilty to accessory to aggravated battery in both cases. (3/8/21 Tr., p.10, L.22 – p.12, L.23; R., pp.67-76, 160-69.) At the joint sentencing hearing in May 2021, the State recommended the district court impose a five-year fixed sentence in the first case, and a consecutive sentence of five years, with one year fixed, in the second case. (5/3/21 Tr., p.6, L.25 – p.7, l.5.) Defense counsel recommended a period of retained jurisdiction in both cases, with no recommendation as to the length of the underlying sentences. (5/3/21 Tr., p.13, Ls.23-25.) The district court imposed a sentence of five years, with four years fixed, in the first case (5/3/21 Tr., p.19, Ls.11-15; R., pp.87-91), and a consecutive sentence of five years indeterminate in the second case. (5/3/21 Tr., p.19, Ls.16-19; R., pp.180-83.) Thus, the district court imposed an aggregate unified sentence of ten years, with four years fixed.

Ms. Laub timely appealed from the judgments of conviction in both cases. (R., pp.96-98, 184-87.)

Ms. Laub also filed a Criminal Rule 35 motion in each case. (See iCourt Portal, *State of Idaho v. Sara Marie Laub*, Twin Falls County No. CR42-20-8812; iCourt Portal, *State of Idaho v. Sara Marie Laub*, Twin Falls County No. CR42-20-8813.) The district court has not yet ruled on these motions.

### ISSUE

Did the district court abuse its discretion when it imposed an excessive aggregate sentence of ten years, with four years fixed, upon Ms. Laub?

## ARGUMENT

### The District Court Abused Its Discretion When It Imposed An Excessive Aggregate Sentence Of Ten Years, With Four Years Fixed, Upon Ms. Laub.

Ms. Laub asserts that, given any view of the facts, her aggregate sentence of ten years, with four years fixed, is excessive. Where a defendant contends that the sentencing court imposed an excessively harsh sentence, the appellate court will conduct an independent review of the record giving consideration to the nature of the offense, the character of the offender, and the protection of the public interest. *See State v. Reinke*, 103 Idaho 771, 772 (Ct. App. 1982).

The Idaho Supreme Court has held 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. Jackson*, 130 Idaho 293, 294 (1997) (quoting *State v. Cotton*, 100 Idaho 573, 577 (1979)). Ms. Laub does not allege that her sentence exceeds the statutory maximum. Accordingly, in order to show an abuse of discretion, she must show that in light of the governing criteria, the sentence was excessive considering any view of the facts. *Id.* The governing criteria or objectives of criminal punishment are: (1) protection of society; (2) deterrence of the individual and the public generally; (3) the possibility of rehabilitation; and (4) punishment or retribution for wrongdoing. *Id.*

Appellate courts use a four-part test for determining whether a district court abused its discretion: “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. Bodenbach*, 165 Idaho 577, 591 (2019) (quoting *Lunneborg v. My Fun Life*, 163, Idaho 856, 863 (2018)).

Here, Ms. Laub asserts the district court abused its discretion by imposing an excessive sentence under any reasonable view of the facts. Specifically, she contends the district court should have retained jurisdiction, or alternatively, sentenced her to a lesser term of imprisonment, in light of the mitigating factors, including her substance abuse and its longstanding impact on her life, her mental health issues, and her minimal criminal record.

██████████ Ms. Laub was exposed to drugs at a young age. The impact of substance abuse on the defendant's criminal conduct is "a proper consideration in mitigation of punishment upon sentencing." *State v. Osborn*, 102 Idaho 405, 414 n.5 (1981). Growing up, Ms. Laub's mother was in and out of prison for drug use. (PSI, p.7.) In a letter written to Ms. Laub and submitted to the district court for consideration at sentencing, Ms. Laub's mother expressed the guilt and anger she feels about how her own addiction has affected Ms. Laub. (PSI, pp.175-78.) In the letter, her mother acknowledged that she was absent for periods of time throughout Ms. Laub's childhood, and stated, "You deserved to have me your whole life. Not just parts of it. I have shown you that drugs and prison is a part of life, you[r] new normal." (R., p.175.) Given this, it is unsurprising that Ms. Laub's substance use began at a young age. When she was ██████████

██████████ Ms. Laub first started using marijuana and drinking alcohol. (PSI, p.8.) She eventually dropped out of school after the ninth grade because she just "wasn't digging it." (PSI, p.8.) By

██████████ Ms. Laub's substance use transformed into a full-fledged addiction, when she began using cocaine on a weekly basis, and using methamphetamine daily. (PSI, p.8.) The Global Appraisal of Individual Needs ("GAIN") Assessment diagnosed Ms. Laub with severe stimulant use disorder. (PSI, p.14.) Ms. Laub acknowledged that drugs have caused problems for her, noting that she quit her last job due to her drug use. (PSI, p.8.) She indicated that she

believes treatment is most needed for her methamphetamine use, and she expressed a desire to stop using and get a handle on her life. (PSI, pp.5, 8, 11, 14; 3/5/21 Tr., p.16, L.6 – p.17, L.2.)

Ms. Laub's mental health issues also weigh in favor of a lesser sentence. "[T]he defendant's mental condition is simply one of the factors that must be considered and weighed by the court at sentencing." *State v. Delling*, 152 Idaho 122, 132 (2011). Ms. Laub has previously been diagnosed with bipolar disorder, depression, anxiety, and post-traumatic stress disorder ("PTSD"). (PSI, p.7.) She reported that she attended counseling sporadically from about [REDACTED] until [REDACTED] and believes that she would currently benefit from some type of counseling. (PSI, p.7.) The GAIN assessment noted that Ms. Laub self-reported symptoms consistent with PTSD, or acute stress disorder. (PSI, pp.14, 16, 24.) She is currently receiving mental health treatment while she is incarcerated. (PSI, p.17.)

In addition, Ms. Laub expressed remorse for her actions and took full responsibility for her behavior. (*See* 5/3/21 Tr., p.15, Ls.14 – p.16, L.4.) In *State v. Alberts*, the Idaho Court of Appeals reduced the sentence imposed, "In light of [defendant's] expression of remorse for his conduct, his recognition of his problem, his willingness to accept treatment and other positive attributes of his character." 121 Idaho 204, 209 (Ct. App. 1991). Ms. Laub acknowledged that her drug use contributed to her legal problems (PSI, pp.5, 11), and expressed that she very is disappointed in herself. (PSI, p.5.) At sentencing, Ms. Laub told the district court that she takes full accountability for her actions (5/3/21 Tr., p.15, Ls.16-17), and stated: "not a day goes by that the victims don't cross my mind." (5/3/21 Tr., p.15, L. 21 – p.16, L.2.)

The lack of a serious criminal record also supports a lesser sentence for Ms. Laub. "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)). The instant offenses are Ms. Laub’s only felony convictions. (PSI, pp.6, 10.) The only other offense on her record is a juvenile conviction for possession of a controlled substance, which was dismissed after she successfully completed a diversion program. (PSI, p.10.) Although the district court acknowledged Ms. Laub’s minimal criminal history (*see* 5/3/21 Tr., p.18, Ls.15-17), it still imposed an aggregate sentence of ten years with four years fixed, and declined to retain jurisdiction. (3/5/21 Tr., p.19, Ls.8-10.)

Despite her severe substance abuse problem and mental health issues, Ms. Laub has a minimal criminal record. She acknowledged that her drug use has caused problems in her life and expressed remorse for her actions. Ms. Laub has never received any type of inpatient substance abuse treatment, and indicated her desire to do so. (*See* PSI, pp.8, 11, 14-15.) In fact, at the sentencing hearing, the district court noted that she is “clearly in need of rehabilitative treatment.” (5/3/21 Tr., p.18, Ls.1-19.)

Proper consideration of these mitigating factors supported a more lenient sentence. In light of these facts, Ms. Laub submits that the district court did not exercise reason, and thus abused its discretion, by imposing and aggregate sentence of ten years, with four years fixed. Ms. Laub asserts the district court should have retained jurisdiction in both cases, or alternatively, imposed a lesser aggregate sentence.



CONCLUSION

Ms. Laub respectfully requests that this Court vacate the judgments of conviction, and remand both cases to the district court for orders retaining jurisdiction. Alternatively, Ms. Laub requests this Court reduce her sentences as it deems appropriate.

DATED this 12<sup>th</sup> 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 12<sup>th</sup> day of October, 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

KAH/eas