

Uldaho Law

## Digital Commons @ Uldaho Law

---

Not Reported

Idaho Supreme Court Records & Briefs

---

11-29-2021

### State v. Wrede Appellant's Brief Dckt. 48944

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

---

#### Recommended Citation

"State v. Wrede Appellant's Brief Dckt. 48944" (2021). *Not Reported*. 7332.  
[https://digitalcommons.law.uidaho.edu/not\\_reported/7332](https://digitalcommons.law.uidaho.edu/not_reported/7332)

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

ERIK R. LEHTINEN  
Chief, Appellate Unit  
I.S.B. # 6247  
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,	)	
	)	NO. 48944-2021
Plaintiff-Respondent,	)	
	)	BINGHAM COUNTY NO. CR-2018-1375
v.	)	
	)	
KRISTOPHER WREDE,	)	APPELLANT'S BRIEF
	)	
Defendant-Appellant.	)	
_____	)	

STATEMENT OF THE CASE

Nature of the Case

Kristopher Wrede suffers from Autism Spectrum Disorder and has an extensive history of mental illness. These conditions affect how Mr. Wrede sees and interacts with the world, and tend to cause him to react inappropriately to various social situations.

In 2017, while Mr. Wrede was being held in the Madison County Jail on an unrelated case, he was experiencing significant stress. Others teased him in the jail, which led to him lashing out and losing his temper. Mr. Wrede sent a letter to Judge Pickett, demanding that an

unrelated Bingham County case be dismissed, claiming he had joined a prison gang, and threatening the lives of a host of public officials.

Pursuant to a plea agreement with the State, Mr. Wrede pled guilty to one count of threats against elected officials. At sentencing, the State conceded, and the district court found, that Mr. Wrede's threatening letter was the product of his developmental and mental health issues. Further, the district court recognized that Mr. Wrede had neither the intent, nor the ability, to follow through on his threats. Nevertheless, the district court imposed a sentence of five years, with two years fixed, which it suspended for a five-year period of probation. Although Mr. Wrede appreciates the suspension of his sentence in favor of a period of probation, he contends his underlying sentence is excessive and represents an abuse of the district court's discretion.

#### Statement of the Facts & Course of Proceedings

Mr. Wrede was diagnosed with what was then referred to as Asperger's Disorder in 1997 (PSI, p.41),<sup>1</sup> when he was about [REDACTED] (see PSI, p.5). He has also been diagnosed with anxiety, bipolar disorder, schizoaffective disorder, impulse control disorder, and borderline personality disorder. (Tr., p.32, Ls.7-13.)

Mr. Wrede experiences difficulties in life due to his developmental and mental health issues. He tends to be awkward in social settings, and his developmental issues have created problems in social settings throughout his life. (PSI, p.7.) During school growing up, Mr. Wrede participated in special education classes and received individualized assistance; he was later

---

<sup>1</sup> "Autistic Disorder, Asperger's Disorder and other pervasive developmental disorders" now fall under "the umbrella diagnosis of autism spectrum disorder." Autism Society, *Asperger's Syndrome*, <https://www.autism-society.org/what-is/aspergers-syndrome/> (last visited Nov. 5, 2021).

suspended from school because of his tendency to lose his temper when teased by his peers. (PSI, p.9.) Mr. Wrede struggles with his social skills, and he often responds inappropriately in situations. (PSI, p.42.) He reports that his struggle with his social skills, and his ability to communicate effectively cause him to feel overwhelmed, which leads to reactivity—often in inappropriate ways. (PSI, p. 42.)

Mr. Wrede’s propensity to act inappropriately in social situations, and his tendency to feel overwhelmed and lash out in anger is what led to the incident in this case. In 2017, while serving time in the Madison County Jail, Mr. Wrede was having a hard time with other inmates and jail deputies. (PSI, p.5.) These difficulties caused Mr. Wrede to lose his temper, lash out, and write a threatening letter. (PSI, p.5.) Mr. Wrede sent a letter to Judge Pickett, who was presiding over a separate Bingham County criminal case against Mr. Wrede at the time. (R., pp.20-21.) The letter stated that if Judge Pickett did not ensure that the Bingham County Prosecutor dropped the charges against Mr. Wrede, he would enlist the help of a prison gang to “terminate the following lives”; it then went on to provide a list of names, including state, local, and national officials. (R., pp.20-21.) Among the individuals named were Cleve Colson, the elected prosecutor for Bingham County at that time, Paul Rogers, the deputy prosecutor assigned to Mr. Wrede’s Bingham County case, then-Lieutenant Governor Brad Little, Washington Governor Jay Inslee, United States Senators Jim Risch, Mike Crapo, and Bernie Sanders, then-Minority Leader Nancy Pelosi, former Senator Barbara Boxer, and former Secretary of State Hillary Clinton. (*See* R., pp.20-21.) Mr. Wrede did not write the letter with any intention of causing harm—he just reacted out of anger and frustration. (PSI, pp.5-6).

The State filed a complaint against Mr. Wrede in March 2018 alleging one felony count of threats against state elected officials (second offense within five years). (R., pp.12-13.) An

arrest warrant was issued at that time (R., p.23), but that warrant was not served for two years (see R., p.24) even though Mr. Wrede was in custody virtually the entire time (see PSI, p.13). Specifically, the arrest warrant was served on February 12, 2020, (R., p.24), just a couple weeks after Mr. Wrede had paroled out on his Bingham County case (see PSI, pp.13, 52).

By that time, Mr. Wrede had various services (housing, a bus pass, job training, etc.) lined up, and he was set up to receive psychiatric care (including medication) and counseling. (See R., pp.67-72.) Fortunately, the district court released him on his own recognizance in this case (R., pp.74-75), thereby allowing him to take advantage of the services he so desperately needed. Mr. Wrede remains grateful for the invaluable assistance he received from Annie Munoz, a re-entry specialist at the One Stop Re-Entry Center in Boise, and the countless others who worked so hard to help start him off on the right foot when he re-entered society.

As this case progressed, Mr. Wrede made the most of the opportunity that had been afforded him. His living arrangement has remained stable.<sup>2</sup> (R., p.15.) He has utilized the governmental assistance that is available to him, such as food stamps and Medicaid. (R., p.15.) He completely abstains from drugs and alcohol. (R., p.15.) And he obtained a good job with Zeppole Bakery. (PSI, p.49.) That job has gone exceptionally well for Mr. Wrede. Charles Alpers, the owner of Zeppole, had this to say about Mr. Wrede:

During Kris' time of employment with us he has been a reliable and hard-working member of our team. He has a pleasant and engaging personality, and he is eager to do whatever it takes to get the job done. We are hopeful that Kris will become a long-time member of the Zeppole bakery team.

(R., p.49.)

Most importantly though, Mr. Wrede "acknowledges his needs and limitations" based on his developmental and mental health issues (PSI, p.15); he is open to ongoing mental health

---

<sup>2</sup> Although Mr. Wrede was still living in transitional housing at the time of sentencing (PSI, p.10), his goal is to be able to move into his own apartment (PSI, p.14).

treatment and counseling (*see* PSI, p.67); he has learned to seek out targeted professional help when he is having serious mental health symptoms (*see, e.g.,* PSI, pp.101-02 (indicating Mr. Wrede voluntarily committed himself to Intermountain Hospital when he experienced increased paranoia and suicidal ideations)); and he seems to be medication-compliant (*see, e.g.,* PSI, p.64 (recounting Mr. Wrede expressing grave concerns that he might not be able to obtain his mental health medications before the pharmacy closed)). Mr. Wrede now has a psychiatrist to manage his mental health medications and facilitate psychotherapy (R., p.48), and Ms. Munoz noted that she “can really see a difference with him getting [medication management] service and maintaining his meds.” (PSI, p.52.)

Overall, Ms. Munoz reported that since returning to society in early 2020, “Kris has made some huge steps to make it on his own and he is a productive member in society. I’m super proud of him! I believe the community is where he belongs.” (PSI, p.52.)

Ultimately, Mr. Wrede entered into a plea agreement with the State. Under the terms of that agreement, he agreed to plead guilty to the charge of threats against state elected officials, in exchange for the State recommending probation and an underlying sentence that is concurrent with Mr. Wrede’s sentence in a federal case. (R., pp.98-101.) At the sentencing hearing in June 2021, the State recommended five years, with two years fixed, suspended for five years of probation. (Tr. p.34, Ls.14-17.) The district court followed that recommendation. (Tr. p.45, Ls.8-14; R., p.123.)

Mr. Wrede filed a Notice of Appeal timely from the district court’s judgment of conviction. (R., pp.141-42.)

## ISSUE

Did the district court abuse its discretion when it imposed upon Mr. Wrede an underlying sentence of five years, with two years fixed?

## ARGUMENT

### The District Court Abused Its Discretion When It Imposed Upon Mr. Wrede An Underlying Sentence Of Five Years, With Two Years Fixed

Mr. Wrede asserts that, given any view of the facts, his underlying sentence of five years, with two 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, considering the nature of the offense, the character of the offender, and the protection of the public interest. *See State v. Reinke*, 103 Idaho 771 (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)). Mr. Wrede does not allege that his sentence exceeds the statutory maximum. Accordingly, to show an abuse of discretion, Mr. Wrede 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.*

Here, Mr. Wrede asserts the district court abused its discretion by imposing an excessive sentence under any reasonable view of the facts. Specifically, he contends the district court should have imposed a shorter underlying sentence in light of the mitigating factors, including his developmental and mental health issues, and his progress in reintegrating back into society.

Mr. Wrede has experienced developmental and mental health issues from an early age. As noted, he was diagnosed with Autism Spectrum Disorder as a young child. (See PSI, p.41.) He has also been diagnosed with anxiety, bipolar disorder, schizoaffective disorder, impulse control disorder, and borderline personality disorder (Tr., p.32, Ls.7-13), and he has a fairly extensive history of mental health hospitalizations, including a number of suicide attempts and/or suicidal ideations. (PSI, pp.28, 41-43, 105-06.) However, by the time Mr. Wrede pled guilty and was sentenced in this case, his care was being overseen by a psychiatrist with St. Luke's, he had been referred for psychotherapy, and he appeared stable on the following medications: chlorpromazine, olanzapine, carbamazepine, and benztropine.<sup>3</sup> (PSI, pp.48, 80-85; R., p.111.)

There is no dispute that Mr. Wrede's conduct in this case was a product of his Autism Spectrum Disorder and his mental health challenges. The prosecutor recognized as much during sentencing, stating that even though Mr. Wrede continues to make threats when he becomes frustrated, "It sounds like those are based on mental health issues, primarily." (Tr., p.34, Ls.4-7.) Likewise, the district court recognized that Mr. Wrede's threats are "explained by [his] mental health issues, [his] diagnoses that [he] do[es] have with autism and Asperger's and the other

---

<sup>3</sup> Chlorpromazine (e.g., Thorazine) and olanzapine (e.g., Zyprexa) are anti-psychotics. See Drugs.com, *Chlorpromazine* (<https://www.drugs.com/mtm/chlorpromazine.html>) (last visited Nov. 22, 2021); Drugs.com, *Olanzapine* (<https://www.drugs.com/mtm/olanzapine.html>) (last visited Nov. 22, 2021).

Benzotropine (e.g., Cogentin) is used to treat stiffness and tremors. Drugs.com, *Benzotropine* (<https://www.drugs.com/mtm/benzotropine.html>) (last visited Nov. 22, 2021). Although benzotropine is primarily used by individuals with Parkinson's disease or similar conditions, it is also prescribed for people suffering movement disorder side-effects of antipsychotic drugs. Healthline, *Benzotropine, Injectable Solution* (<https://www.healthline.com/health/drugs/benzotropine-injectable-solution>) (last visited Nov. 22, 2021). Presumably, Mr. Wrede is taking benzotropine for that purpose. (See PSI, p.81 (noting that Mr. Wrede "had tardive dyskinesias from taking Risperdal" (risperidone)).)

Carbamazepine (e.g., Tegretol) is an anti-convulsant, Drugs.com, *Carbamazepine* (<https://www.drugs.com/carbamazepine.html>) (last visited Nov. 22, 2021). Mr. Wrede finds it helpful in treating the "movements" and "pseudoseizures" apparently caused by his past Risperdal use. (See PSI, p.81.)

mental health diagnoses.” (Tr., p.44, Ls.5-11.) And, at the same time, the district court accepted “the fact that in reality, [Mr. Wrede] would not have intent or the ability to really follow through with threats.” (Tr., p.44, Ls.14-16.)

Moreover, the criminal conduct at issue in this case occurred in 2017, while Mr. Wrede was incarcerated on another matter. A lot has changed for Mr. Wrede since then—all for the better. As noted above, Mr. Wrede recognizes his developmental and mental health challenges, his medications are currently being managed by a psychiatrist, and he is now being proactive in seeking out professional help when he struggles. In addition, Mr. Wrede has already demonstrated his ability to re-integrate into society.

As noted, Mr. Wrede has had a good job at Zeppole Baking Company since March 2021. (PSI, p.49.) Mr. Wrede is a “valued full-time employee” for Zeppole. (PSI, p.50.) The owner describes Mr. Wrede as “reliable” and “hard-working,” and reports that “[Mr. Wrede] has a pleasant and engaging personality, and he is eager to do whatever it takes to get the job done.” (PSI, p.49.) The owner reports that he would “most definitely retain [Mr. Wrede] as an employee,” and that he is “hopeful that Kris will become a long-time member of the Zeppole bakery team.” (PSI, pp.49, 50.)

Despite Mr. Wrede’s significant developmental and mental health issues, he has shown a willingness and ability to be a contributing member of society. Mr. Wrede has taken steps to treat and improve his mental health, and has a desire to better himself and be part of the community. Mr. Wrede aspires to further his education, with the ultimate goal of earning a doctorate degree. (PSI, p.14.) In the meantime, he is working toward getting his own apartment and being self-sufficient. (PSI, p.14.) He intends to accomplish these goals by maintaining his steady employment and committing himself to receiving one-on-one counseling. (PSI, p.14.)

The events of this case are a direct result of Mr. Wrede's developmental disability and mental health struggles. He never intended to act on the threats he made; rather, those threats resulted from frustration and an inability to productively deal with teasing and negative social interactions. Mr. Wrede is taking the steps to get help in controlling these outbursts, which include him seeking counseling and medications to help him manage these reactions. (PSI, pp.7-8.) He has also done an admirable job of becoming a contributing member of society by obtaining a good job and committing himself to it. While Mr. Wrede tremendously appreciates the faith placed in him by the district court when it suspended his sentence and placed him on probation, he contends the district court should have given him a shorter underlying sentence. He contends the district court's failure to do so demonstrates an abuse of its sentencing discretion.

#### CONCLUSION

Mr. Wrede respectfully requests that this Court reduce his underlying sentence as it deems appropriate.

DATED this 29<sup>th</sup> day of November, 2021.

/s/ Erik R. Lehtinen  
ERIK R. LEHTINEN  
Chief, Appellate Unit

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29<sup>th</sup> day of November, 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

ERL/eas