

2006

Utah v. Thomas C. Hill : Brief of Appellee

Utah Court of Appeals

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IN THE UTAH COURT OF APPEALS

STATE OF UTAH, :
Plaintiff/Appellee, :
v. : Case No. 20060309-CA
THOMAS C. HILL, :
Defendant/Appellant. :

BRIEF OF APPELLEE

APPEAL FROM CONSECUTIVE SENTENCES IMPOSED UPON
CONVICTIONS OF AGGRAVATED ASSAULT AND VIOLATION OF
A PROTECTIVE ORDER, IN THE SECOND JUDICIAL DISTRICT,
WEBER COUNTY, THE HONORABLE ROGER S. DUTSON
PRESIDING

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ORAL ARGUMENT NOT REQUESTED

FILED
UTAH APPELLATE COURT.
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IN THE UTAH COURT OF APPEALS

STATE OF UTAH, :
Plaintiff/Appellee, :
v. : Case No. 20060309-CA
THOMAS C. HILL, :
Defendant/Appellant.

BRIEF OF APPELLEE

JURISDICTION AND NATURE OF THE PROCEEDINGS

Defendant appeals from consecutive sentences imposed after he pled guilty to aggravated assault and violation of a protective order, both third degree felonies, in the Second Judicial District, Weber County, the Honorable Roger S. Dutson presiding. This Court has jurisdiction over the appeal under Utah Code Ann. § 78-2a-3(2)(e).¹

ISSUES ON APPEAL AND STANDARDS OF REVIEW

Did the trial court abuse its discretion by imposing consecutive sentences, where the court considered all legally relevant factors and where defendant had an extensive and serious criminal history, had knowingly violated a protective order, and had stabbed his estranged wife in the neck?

Standard of Review. A trial court's sentencing decision is reviewed for abuse of discretion. *State v. Helms*, 2002 UT 12, ¶ 8, 40 P.3d 626.

¹ Unless otherwise stated, all citations to the code are to the West 2004 publication.

CONSTITUTIONAL PROVISIONS, STATUTES, AND RULES

The following relevant statute is reproduced in **Addendum A**:

Utah Code Ann. § 76-3-401.

STATEMENT OF THE CASE

The State filed an information charging defendant with five counts: aggravated burglary, a first degree felony, in violation of Utah Code Ann. § 76-6-203; aggravated kidnapping, a first degree felony, in violation of Utah Code Ann. § 76-5-302; aggravated assault, a third degree felony, in violation of Utah Code Ann. § 76-5-103; violation of a protective order following a prior conviction, a third degree felony, in violation of Utah Code Ann. §§ 76-5-108 and 77-36-1.1; and possession or use of a dangerous weapon by a restricted person, a third degree felony, in violation of Utah Code Ann. § 76-10-503(2)(b). R1-2. The State later amended the information, dismissing the aggravated burglary count and adding a count of attempted murder, a second degree felony, in violation of Utah Code Ann. § 76-5-203. R22, 23-24.

Defendant pled guilty to aggravated assault and to violation of a protective order following a prior conviction. R43-44, 45-50. In exchange, the State dismissed the remaining charges. *See id.* The court then referred defendant to Adult Probation and Parole (AP&P) for preparation of a presentence investigation report (PSI). R44; *see also* PSI.

On March 13, 2006, the court entered judgment, sentencing defendant to two consecutive prison terms of zero to five years. R61-62. Defendant timely appealed. R67.

STATEMENT OF THE FACTS

The crime²

The Second District court issued a protective order forbidding defendant from contacting April Sube, his estranged wife. *See* R4. Defendant nevertheless contacted Sube at her residence. *See id.* The two argued, and defendant threatened to kill her and then himself. *See id.* Defendant used a butter knife to strike Sube in the head, neck, and left bicep. *See id.* Two of the strikes lacerated the back of Sube's neck and her left bicep. *See id.* Defendant then took pills in an attempt to harm himself. *See* R4-5. After Sube sought assistance, defendant was found unconscious in her apartment. R5.

The sentencing hearing

At a hearing held February 27, 2006, defendant moved that sentencing be continued.³ R58. Defendant had apparently received a copy of the PSI and disputed some of the incidents in his criminal history. *See id.*; *see also* R73:7 ("Mr. Hill again is refuting many of the items."). The court granted the continuance and directed AP&P to file a supplemental memorandum verifying defendant's prior record. R58.

Court reconvened on March 13, 2006. R61; *see also* R73:6-10 (transcript of sentencing hearing, reproduced in **Addendum B**). Defendant again contested the accuracy of his criminal history, as set forth in the PSI, but the trial court found that AP&P had confirmed the contested criminal incidents through fingerprint comparison.

² This version of the facts is taken from the probable cause affidavit. R4-5. The PSI contains a more detailed account of the criminal episode. *See* PSI at 3-6.

³ The record does not contain a transcript of this proceeding.

R73:8. Moreover, the court explained, the accuracy of the contested incidents was not “going to make too much difference” because the “three prior imprisonments and continued violations of serious laws” were its real concern and the basis for its sentencing decision. R73:9.

SUMMARY OF ARGUMENT

The trial court did not abuse its discretion when it imposed consecutive sentences. First, statutory law permits the court to impose consecutive sentences, even when the offenses upon which the convictions rest are part of the same criminal episode.

Second, while the trial court must consider the factors outlined by section 76-3-401 before imposing consecutive sentences, the trial court need not make specific findings of fact regarding the factors. This Court may assume that the trial court did consider the factors where the trial court referenced the PSI, which, in turn, addressed all of the statutory factors.

Third, the imposition of consecutive terms was not, under the circumstances of this case, inherently unfair or clearly excessive. Defendant had an extensive and serious criminal history and had been imprisoned at least three times, prior to the instant offenses, for serious crimes. He had engaged in repeated acts of domestic violence, knowingly violated a protective order, and stabbed his estranged wife in the neck.

ARGUMENT

THE TRIAL COURT PROPERLY EXERCISED ITS DISCRETION WHEN IT IMPOSED CONSECUTIVE SENTENCES: THE COURT CONSIDERED ALL LEGALLY RELEVANT FACTORS, INCLUDING DEFENDANT'S REHABILITATIVE NEEDS, AND ITS SENTENCING DECISION WAS NEITHER INHERENTLY UNFAIR NOR CLEARLY EXCESSIVE

Defendant claims that “the trial court abused its discretion when it sentenced [him] to consecutive prison terms on offenses that occurred in the same criminal episode.” Appellant’s Br. at 9 (uppercase lettering omitted). Defendant further asserts that “[t]he trial court abused its discretion in this case because it failed to consider all the legally relevant factors.” *Id.* at 10. Specifically, defendant asserts that “the trial court totally failed to look at any possible rehabilitative needs of the Defendant” and was “absolutely silent regarding any possible analysis as to the Defendant’s ability to function in society, his ability to obtain new or different training, or the rehabilitative needs the Defendant could use in an effort to rehabilitate him back into society.” *Id.* at 13. Defendant also asserts that the court abused its discretion because “it imposed an excessive sentence.” *Id.* at 10.

Defendant cannot prevail on these claims. A trial court may impose consecutive sentences on offenses that occurred in the same criminal episode. Although the trial court must *consider* all relevant legal factors before imposing consecutive sentences, it need not consider them *on the record*. Moreover, under the circumstances of this case, the consecutive sentences were not excessive.

Relevant law. A trial court’s sentencing decision is reviewed for abuse of discretion. *State v. Helms*, 2002 UT 12, ¶ 8, 40 P.3d 626. “The trial court abuses its discretion when it fails to consider all legally relevant factors, or if the sentence imposed exceeds the limits prescribed by law.” *State v. Bluff*, 2002 UT 66, ¶ 66, 52 P.3d 1210 (citations omitted). Defendants face a particularly heavy burden when challenging a trial court’s sentence. An appeals court “will not overturn a sentence unless it exceeds statutory or constitutional limits, the judge failed to consider all the legally relevant factors[,] or the actions of the judge were so inherently unfair as to constitute abuse of discretion.” *State v. Sotolongo*, 2003 UT App 214, ¶ 3, 73 P.3d 991 (citations and internal quotation marks omitted). “Indeed, . . . sentencing reflects the personal judgment of the court, and consequently, a sentence imposed by the trial court should be overturned only when it is inherently unfair or clearly excessive.” *Helms*, 2002 UT 12, ¶ 14 (citing *State v. Woodland*, 945 P.2d 665, 671 (Utah 1997)).

A. Even assuming that the two crimes for which defendant was convicted were part of a single criminal episode, defendant cannot prevail on his claim that the trial court abused its discretion when it imposed consecutive sentences.

Defendant first claims that “the trial court abused its discretion when it sentenced [him] to consecutive prison terms on offenses that occurred in the same criminal episode.” Appellant’s Br. at 9 (uppercase lettering omitted).

Defendant’s claim is inadequately briefed. Defendant states, without analysis, that the convictions were a part of a “single criminal episode,” as defined by section 76-1-401. *Id.* at 11, 14. However, he has not alleged that the trial court erred, let alone explained how it erred, when it ruled that the crimes were not a part of a single criminal

episode. *See* R73:10. This Court should therefore decline to address his claim. *See State v. Pritchett*, 2003 UT 24, ¶ 12, 69 P.3d 1278 (where defendant fails to cite relevant authority, court will not find it for him); *State v. Garner*, 2002 UT App 234, ¶ 12, 52 P.3d 467 (when party fails to offer meaningful analysis, the court will not reach merits of claim); *State v. Bryant*, 965 P.2d 539, 549 (Utah App. 1998) (“Utah courts routinely decline to consider inadequately briefed arguments.”).

In any case, defendant could not prevail even if the crimes were part of the same criminal episode. Statutory law permits courts to impose consecutive sentences “for offenses arising out of a single criminal episode.” Utah Code Ann. § 76-3-401(5). Defendant’s suggestion that consecutive sentences are improper, merely because the convictions rest on two offenses arising out of the same criminal episode, is therefore contrary to statutory law.

B. The trial court properly considered all legally relevant factors when it imposed consecutive terms.

Defendant claims that the trial court abused its discretion because it imposed consecutive sentences without considering all legally relevant factors. Appellant’s Br. at 9. Defendant asserts that the trial court failed to consider his “rehabilitative needs,” his “ability to function in society,” and his “ability to obtain new or different training.” *Id.* at 13. Defendant argues that “[t]he possibility of rehabilitation by the Defendant together with his disputed criminal history was apparently not considered by the trial court,” because the court did not specifically discuss that factor during the sentencing hearing.

Id. at 11. Defendant cannot prevail on this claim because the trial court did, in fact, consider the legally relevant factors.

Statutory law outlines the factors a court must consider when determining whether to run sentences concurrently or consecutively: “[I]n determining whether state offenses are to run concurrently or consecutively, the court shall consider the gravity and circumstances of the offenses, the number of victims, and the history, character, and rehabilitative needs of the defendant.” Utah Code Ann. § 76-3-401(2). These factors are reiterated in *State v. Galli*, 967 P.2d 930, 938 (Utah 1998), cited in defendant’s brief.

A sentencing court, however, is not required to state on the record its consideration of every legally relevant factor. *Helms*, 2002 UT 12, ¶ 11. Instead, a reviewing court may assume that the sentencing court considered the factors, unless (1) an ambiguity of facts makes the assumption unreasonable, (2) a statute explicitly requires written findings, or (3) a prior case states that findings on the issue must be made. *Id.* at ¶ 11. None of these exceptions applies in this case.

In *Helms*, 2002 UT 12, 40 P.3d 626, a case similar to the instant one, the defendant argued that the court should “assume that the trial court did not consider the factors at all, simply because it did not address each of the factors on the record.” *Id.* at ¶ 10. The supreme court rejected that argument, explaining that the court “will not assume that the trial court’s silence, by itself, presupposes that the court did not consider the proper factors as required by law. To do so would trample on the deference this court usually gives to the sentencing decisions of a trial court.” *Id.* at ¶ 11 (citing *State v. Woodland*, 945 P.2d 665, 671 (Utah 1997)). The court held that “[n]either our case law

nor our statutes require a trial court to make specific findings of fact in a sentencing order.” *Id.* at ¶ 12.

Instead, the court examined the record for “evidence to suggest that the trial court did consider all of the factors.” *Id.* at ¶ 13. The *Helms* court noted that the pre-sentence investigation report “contain[ed] detailed information regarding not only the ‘gravity and circumstances of the offenses,’ but also the ‘history, character, and rehabilitative needs of the defendant.’” *Id.* (quoting Utah Code Ann. § 76-3-401(2)). Thus, the trial court’s review of the PSI “evidence[d] that the trial court did consider Helms’ history, character, and rehabilitative needs.” *Id.*

Defendant cannot distinguish *Helms*. In this case, as in *Helms*, AP&P prepared a PSI, which addressed each of the statutory factors. The PSI described in detail the gravity and circumstances of the criminal incident, including conduct that was not specifically mentioned on the record. *See* PSI at 3-6. It discussed defendant’s extensive criminal history, including numerous violent crimes and his incarceration at both county and state facilities. *Id.* at 7-10. It also examined defendant’s life history, current living situation, education, employment, and financial information. *Id.* at 11-12. It analyzed his substance abuse history and noted that defendant did not feel he needed drug abuse treatment. *Id.* at 12.

The PSI also addressed defendant’s rehabilitative needs, recognizing that he fell within the high risk needs classification, with problem areas in his criminal history, drug and alcohol use, and personal life. PSI, at 2. It also noted that this was not defendant’s first arrest on domestic violence charges. *Id.* Based upon these facts, the report

suggested consecutive sentences. *Id.* Essentially, defendant had shown that he was not amenable to rehabilitation. After reviewing the PSI, the court ordered that defendant's sentences run consecutively, noting that defendant had "not shown that [he had] changed sufficiently to justify [a lesser sentence]." R73:9-10.

Defendant has not pointed to anything in the record that demonstrates that the trial court failed to consider these factors. Moreover, while the trial court did not specifically refer to all of the factors in its ruling, the court referenced and relied on the PSI, which did address all legally relevant factors. *See* R73:6-10; PSI. Under these circumstances, it is "reasonable to assume that the court actually made such findings," and this Court should "uphold[] the trial court."⁴ *Helms*, 2002 UT 12, ¶ 11 (quoting *State v. Robertson*, 932 P.2d 1219, 1234 (Utah 1997)). Thus, the trial court did not abuse its discretion by failing to consider the legally relevant factors when it imposed consecutive sentences.⁵

⁴ In addition, the transcript of the sentencing hearing evidences the trial court's extensive consideration of defendant's criminal history. *See* R73:6-10.

⁵ Defendant argues that "[s]everal of [the relevant] factors can be applied favorably to the Defendant's situation." Br. Aplt. at 12. Although defendant is entitled to disagree with the sentencing court's decision, it does not constitute grounds for reversal. "[T]he fact that [defendant] views his situation differently than did the trial court does not prove that the trial court neglected to consider the [statutory] factors." *Helms*, 2002 UT 12, ¶ 14. "Indeed, we have recognized that sentencing reflects the personal judgment of the court, and consequently, a sentence imposed by the trial court should be overturned only when it is inherently unfair or clearly excessive." *Id.* (citing *Woodland*, 945 P.2d at 671).

C. The sentencing decision was neither “inherently unfair” nor “clearly excessive.”

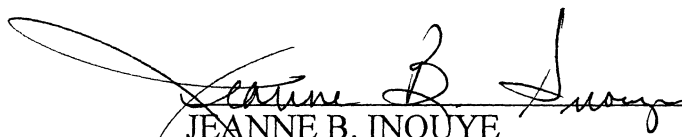
Defendant also contends that the imposition of consecutive sentences was “clearly excessive.” However, the trial court is permitted, in its discretion, to impose consecutive sentences after considering the factors enumerated section 76-3-401(2). *See Galli*, 967 P.2d at 938. The sentences imposed were within statutorily permitted limits, as defendant was sentenced to two consecutive terms of zero to five years in prison based upon two third degree felony convictions. *See Utah Code Ann. § 76-3-203(1)*. Moreover, because of the serious nature of the crime and defendant’s history, character, and lack of rehabilitation, the sentencing decision was neither “inherently unfair” nor “clearly excessive.” *See Sotolongo*, 2003 UT App 214, ¶ 3; *see also State v. Thorkelson*, 2004 UT App 9, ¶ 12, 84 P.3d 854 (quoting *State v. Gerrard*, 584 P.2d 885, 887 (Utah 1978)) (“A court abuses its discretion in imposing consecutive sentences only if ‘no reasonable [person] would take the view by the [sentencing] court’”).

CONCLUSION

Defendant's sentences should be affirmed.

Respectfully submitted this 4th day of December, 2006.

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CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of December, 2006, I either mailed first-class postage prepaid or hand-delivered two copies of the foregoing Brief of Appellee to appellant's counsel of record, as follows:

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Addenda

Addendum A

76-3-401. Concurrent or consecutive sentences -- Limitations -- Definition.

(1) A court shall determine, if a defendant has been adjudged guilty of more than one felony offense, whether to impose concurrent or consecutive sentences for the offenses. The court shall state on the record and shall indicate in the order of judgment and commitment:

(a) if the sentences imposed are to run concurrently or consecutively to each other; and

(b) if the sentences before the court are to run concurrently or consecutively with any other sentences the defendant is already serving.

(2) In determining whether state offenses are to run concurrently or consecutively, the court shall consider the gravity and circumstances of the offenses, the number of victims, and the history, character, and rehabilitative needs of the defendant.

(3) The court shall order that sentences for state offenses run consecutively if the later offense is committed while the defendant is imprisoned or on parole, unless the court finds and states on the record that consecutive sentencing would be inappropriate.

(4) If a written order of commitment does not clearly state whether the sentences are to run consecutively or concurrently, the Board of Pardons and Parole shall request clarification from the court. Upon receipt of the request, the court shall enter a clarified order of commitment stating whether the sentences are to run consecutively or concurrently.

(5) A court may impose consecutive sentences for offenses arising out of a single criminal episode as defined in Section 76-1-401.

(6) (a) If a court imposes consecutive sentences, the aggregate maximum of all sentences imposed may not exceed 30 years imprisonment, except as provided under Subsection (6)(b).

(b) The limitation under Subsection (6)(a) does not apply if:

(i) an offense for which the defendant is sentenced authorizes the death penalty or a maximum sentence of life imprisonment; or

(ii) the defendant is convicted of an additional offense based on conduct which occurs after his initial sentence or sentences are imposed.

(7) The limitation in Subsection (6)(a) applies if a defendant:

(a) is sentenced at the same time for more than one offense;

(b) is sentenced at different times for one or more offenses, all of which were committed prior to the position of the defendant's initial sentence; or

(c) has already been sentenced by a court of this state other than the present sentencing court or by a court of another state or federal jurisdiction, and the conduct giving rise to the present offense did not occur after his initial sentencing by any other court.

(8) When the limitation of Subsection (6)(a) applies, determining the effect of consecutive sentences and the manner in which they shall be served, the Board of Pardons and Parole shall treat the defendant as though he has been committed for a single term that consists of the aggregate of the validly imposed prison terms as follows:

(a) if the aggregate maximum term exceeds the 30-year limitation, the maximum sentence is considered to be 30 years; and

(b) when indeterminate sentences run consecutively, the minimum term, if any, constitutes the aggregate of the validly imposed minimum terms.

(9) When a sentence is imposed or sentences are imposed to run concurrently with the other or with a sentence presently being served, the term that provides the longer remaining imprisonment constitutes the term to be served.

(10) This section may not be construed to restrict the number or length of individual

consecutive sentences that may be imposed or to affect the validity of any sentence so imposed, but only to limit the length of sentences actually served under the commitments.

(11) This section may not be construed to limit the authority of a court to impose consecutive sentences in misdemeanor cases.

(12) As used in this section, "imprisoned" means sentenced and committed to a secure correctional facility as defined in Section 64-13-1, the sentence has not been terminated or voided, and the person is not

n Code Section 76-5-701

parole, regardless of where the person is located.

ended by Chapter 129, 2002 General Session

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revised: Tuesday, October 03, 2006

Addendum B

1 OGDEN, UTAH - MARCH 13, 2006

2 HONORABLE ROGER S. DUTSON PRESIDING

3 For the Plaintiff: MARK A. DECARIA

4 For the Defendant: JIM RETALLICK

5 P R O C E E D I N G S

6 MR. RETALLICK: No. 4 on the calendar, Thomas Hill,
7 Your Honor

8 COURT CLERK: State of Utah versus Thomas C. Hill,
9 case #051903912. Time set for sentencing.

10 THE COURT: - probation officer that I agree with the
11 concept of what he was trying to get across with the
12 recommendation for jail but -

13 MR. RETALLICK: This is Mr. Hill, Your Honor.

14 THE COURT: (inaudible) keeps doing that.

15 MS. ?: Yes, Your Honor.

16 MR. RETALLICK: As the Court may recall this matter
17 was continued for AP&P to try to verify some of the criminal
18 history of defendant.

19 THE COURT: We need to see what these California
20 charges really were all about.

21 MR. RETALLICK: Your Honor, according to an
22 investigation done by Mr. LePlant, he said prior to preparing a
23 pre-sentence report "I reviewed the defendant's arrest history
24 extensively, comparing his birth date and social security
25 number to the BCI and Triple I information. I also reviewed

1 limited computer records for AP&P regarding his commitment to
2 the Utah State Prison in '78 and '81. Made contact with Alisha
3 Wilson, tech for BCI who informed me that prior to an arrest
4 being placed on defendant's arrest record they had compared the
5 arrested person's fingerprints with the ones they currently
6 have on file. They also used fingerprints to identify alias of
7 individuals."

8 And so basically they're saying that the criminal
9 history that they have here is correct. Mr. Hill again is
10 refuting many of the items. He does admit that he was in
11 prison once before and that he had successfully terminated
12 prison in 1981; that - and quite frankly, Your Honor, I have a
13 real difficult time believing this Alisha Wilson tech with BCI
14 saying every time they place on somebody's records they compare
15 the fingerprints. I can't tell you how many times I've been
16 here with people who have not been - their criminal history has
17 shown - or indicated crimes that they were in fact not guilty
18 of and so I, you know, I just - I find it absolutely amazing
19 that they're going to compare fingerprints every
20 time they attribute something as long as the social security
21 and birth date match up, that's all they usually go on.

22 Mr. Hill maintains that he was the victim of an
23 identify theft. An old roommate of his took his name, date of
24 birth and social security number and has been using it for a
25 number of years. But Mr. Hill does admit that he was in prison

1 in 1981. He admits that he had some minor offenses, the
2 disorderly conduct. In 1987 it says fugitive from justice.
3 There was a warrant served and he was returned to California.

4 Wasn't it, in fact, you still maintain that was not
5 you, is that correct?

6 THE DEFENDANT: That wasn't me.

7 MR. RETALLICK: He has never been extradited to
8 California in any case, Your Honor.

9 He admits the domestic violence in 2001. I think he
10 admits the simple assault, class B, in 2003. So I don't know
11 where we go from here, Your Honor.

12 THE COURT: Well, I'll make note of those differences
13 and frankly I show two commitments in California, one in '74 in
14 Kachino and one in Susanville. Do you admit those?

15 THE DEFENDANT: I did (inaudible).

16 THE COURT: And then you were sent to prison in Utah
17 in '79.

18 THE DEFENDANT: (inaudible).

19 THE COURT: There's a possibility that you are correct
20 on the identity theft. However having referred it back to
21 Adult Probation department, it does look like they have now
22 gone back to compare fingerprints at least. Perhaps they don't
23 always but I do believe that this re-referral that that has
24 been confirmed.

25 MR. RETALLICK: It doesn't state that there was any

1 comparison of fingerprints, Your Honor. What it states is that
2 DCI says before they do this, this is the general rule. It
3 doesn't state that they specifically did it for this defendant.

4 THE COURT: Yeah. Well, they're confirming what I had
5 requested. I understand your argument.

6 Anything more, Mr. Hill?

7 THE DEFENDANT: No, sir.

8 THE COURT: Does the State have anything further?

9 MR. DECARIA: Now I'm concerned about what the
10 defendant is contending with regard to this past criminal
11 record.

12 THE COURT: Frankly I don't think it's going to make
13 too much difference to the Court because, except for the prison
14 terms, that's what really causes me the concern of three prior
15 imprisonments and continued violations of serious laws. That's
16 what I'm basing my sentence on.

17 MR. DECARIA: Okay, I'll submit it.

18 THE COURT: Other than the ones that are clearly
19 admitted here but they're misdemeanors.

20 It is the sentence of this Court that you serve a
21 zero to five year term at the Utah State Prison on the
22 aggravated assault and that you serve a zero to five year term
23 on the violation of the protective order and because of your
24 serious history, I'm ordering that they run consecutive to each
25 other. You've not shown that you've changed sufficiently to

1 justify otherwise. I'll give you credit for time served on
2 these charges since you were booked but these are to run
3 consecutive to each other.

4 MR. RETALLICK: Your Honor, weren't these one
5 continuous criminal episode?

6 THE COURT: Not really because the facts that gave
7 rise to each were clearly different.

8 MR. RETALLICK: I understand-

9 THE COURT: And they are different in the sense that
10 when you've got a stabbing and you also have a protective order
11 violation, his being there violates the protective order and
12 then the consequent stabbing is a separate offense and I think
13 both of them, with his history, are sufficient to justify
14 consecutive sentences. That's (inaudible).

15 Oh, Mr. Hill, you have 30 days in which to appeal the
16 sentencing.

17 (Whereupon the hearing was concluded)
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