

IN THE UTAH COURT OF APPEALS

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State of Utah,	)	MEMORANDUM DECISION
	)	(Not For Official Publication)
Plaintiff and Appellee,	)	
	)	Case No. 20090124-CA
v.	)	
	)	F I L E D
Antonio Medina,	)	(August 26, 2010)
	)	
Defendant and Appellant.	)	<span style="border: 1px solid black; padding: 2px;">2010 UT App 235</span>

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First District, Logan Department, 081100842  
The Honorable Clint S. Judkins

Attorneys: David M. Perry, Logan, for Appellant  
            Mark L. Shurtleff and Brett J. DelPorto, Salt Lake  
            City, for Appellee

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Before Judges McHugh, Thorne, and Roth.

PER CURIAM:

Appellant Antonio Medina appeals his sentence of fifteen years to life on his conviction of aggravated kidnaping, a first degree felony.

Utah Code section 76-5-302 states the possible sentences for aggravated kidnaping. See Utah Code Ann. § 76-5-302 (2008). The presumptive sentence on a conviction for aggravated kidnaping is a term of fifteen years to life. See id. § 76-5-302(3)(a). The statute further states,

- (4) If, when imposing a sentence under subsection (3)(a) . . . a court finds that a lesser term than the term described in subsection (3)(a) . . . is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than: . . .
- (b) for purposes of Subsection (3)(a) . . . :
  - (i) ten years and which may be for life, or
  - (ii) six years and which may be for life.

Id. § 76-5-302(4). A sentence of imprisonment on a conviction of aggravated kidnaping is mandatory. See id. § 76-5-302(6); id. § 76-3-406.

"A sentence will not be overturned on appeal unless the trial court has abused its discretion, failed to consider all legally relevant factors, or imposed a sentence that exceeds legally prescribed limits." State v. Nuttall, 861 P.2d 454, 456 (Utah Ct. App. 1993). "An abuse of discretion results when the judge 'fails to consider all legally relevant factors' or if the sentence imposed is 'clearly excessive.'" State v. McCovey, 803 P.2d 1234, 1235 (Utah 1990).

Medina argues that the district court failed to consider all relevant factors in sentencing him to the most severe of the three possible sentences. He relies upon State v. Galli, 967 P.2d 930 (Utah 1998), in which the Utah Supreme Court held that two sentencing courts abused their discretion by imposing consecutive, rather than concurrent, sentences without adequate consideration of legally relevant factors. See id. at 938. Galli is not relevant to Medina's claims because the district court was not required to consider the factors addressed in Galli.

In the present case, the district court sentenced Medina to the presumptive statutory term of fifteen years to life on his conviction of a single count of aggravated kidnaping. Only if the district court had chosen to sentence Medina to one of the lesser terms of six or ten years to life "in the interest of justice" would the district court have been required to make findings in support of the lesser sentence. See Utah Code Ann. § 76-5-302(4). There is no record support for a claim that the district court failed to consider all legally relevant factors. The court obtained and considered a Presentence Investigation Report that described a significant adult criminal and juvenile history. The district court stated that it considered the facts of this case to be serious enough to support the presumptive sentence of fifteen years to life in prison. Clearly, the district court determined that the facts of this case did not justify a reduced sentence under section 76-5-302(4). See id.

The district court did not abuse its discretion by sentencing Medina to the legally prescribed term of fifteen years to life. The district court considered both the severity of Medina's conduct and the mitigating factor of Medina's young age,

before concluding that the statutory term of fifteen years to life was warranted.

Affirmed.

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Carolyn B. McHugh,  
Associate Presiding Judge

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William A. Thorne Jr., Judge

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Stephen L. Roth, Judge