

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 41849

STATE OF IDAHO,	)	2014 Unpublished Opinion No. 761
	)	
Plaintiff-Respondent,	)	Filed: October 15, 2014
	)	
v.	)	Stephen W. Kenyon, Clerk
	)	
MICHAEL SCOTT STEPHENS,	)	THIS IS AN UNPUBLISHED
	)	OPINION AND SHALL NOT
Defendant-Appellant.	)	BE CITED AS AUTHORITY
	)	

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Appeal from the District Court of the Third Judicial District, State of Idaho, Canyon County. Hon. Thomas J. Ryan, District Judge.

Judgment of conviction and unified sentence of eight years, with a minimum period of confinement of one and one-half years, for felony driving under the influence of alcohol, affirmed; order denying I.C.R. 35 motion for reduction of sentence, affirmed.

Sara B. Thomas, State Appellate Public Defender; Elizabeth Ann Allred, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Nicole L. Schafer, Deputy Attorney General, Boise, for respondent.

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Before LANSING, Judge; GRATTON, Judge;  
and MELANSON, Judge

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PER CURIAM

Michael Scott Stephens was found guilty of driving under the influence of alcohol. Idaho Code §§ 18-8004, 18-8005. Stephens pled guilty to the enhancement, making his conviction a felony. The district court sentenced Stephens to a unified term of eight years, with a minimum period of confinement of one and one-half years. Stephens filed an Idaho Criminal Rule 35 motion, which the district court denied. Stephens appeals, asserting that the district court abused its discretion by imposing an excessive sentence and by denying his Rule 35 motion.

Sentencing is a matter for the trial court’s discretion. Both our standard of review and the factors to be considered in evaluating the reasonableness of the sentence are well established.

See *State v. Hernandez*, 121 Idaho 114, 117-18, 822 P.2d 1011, 1014-15 (Ct. App. 1991); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 726, 170 P.3d 387, 391 (2007). Applying these standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion.

Next, we review whether the district court erred in denying Stephens' Rule 35 motion. A motion for reduction of sentence under I.C.R. 35 is essentially a plea for leniency, addressed to the sound discretion of the court. *State v. Knighton*, 143 Idaho 318, 319, 144 P.3d 23, 24 (2006); *State v. Allbee*, 115 Idaho 845, 846, 771 P.2d 66, 67 (Ct. App. 1989). In presenting a Rule 35 motion, the defendant must show that the sentence is excessive in light of new or additional information subsequently provided to the district court in support of the motion. *State v. Huffman*, 144 Idaho 201, 203, 159 P.3d 838, 840 (2007). In conducting our review of the grant or denial of a Rule 35 motion, we consider the entire record and apply the same criteria used for determining the reasonableness of the original sentence. *State v. Forde*, 113 Idaho 21, 22, 740 P.2d 63, 64 (Ct. App. 1987); *Lopez*, 106 Idaho at 449-51, 680 P.2d at 871-73. Upon review of the record, we conclude no abuse of discretion has been shown.

Therefore, Stephens' judgment of conviction and sentence, and the district court's order denying Stephens' Rule 35 motion, are affirmed.