

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 42753

STATE OF IDAHO,) 2015 Unpublished Opinion No. 617
)
Plaintiff-Respondent,) Filed: September 4, 2015
)
v.) Stephen W. Kenyon, Clerk
)
BILLY RAY BARTLETT,) THIS IS AN UNPUBLISHED
) OPINION AND SHALL NOT
Defendant-Appellant.) BE CITED AS AUTHORITY
)
_____)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Michael E. Wetherell, District Judge.

Order denying I.C.R. 35 motion for correction of illegal sentence, affirmed.

Sara B. Thomas, State Appellate Public Defender; Ben P. McGreevy, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

Before MELANSON, Chief Judge; GUTIERREZ, Judge;
and GRATTON, Judge

PER CURIAM

Billy Ray Bartlett was found guilty of sexual abuse of a minor under sixteen, I.C. § 18-1506, with a persistent violator sentencing enhancement, I.C. § 19-2514. The district court sentenced Bartlett to a unified term of life imprisonment, with a minimum period of confinement of thirty years. Bartlett appealed, and this Court affirmed Bartlett's judgment of conviction and sentence in an unpublished opinion. *See State v. Bartlett*, Docket No. 29431 (Ct. App. June 1, 2004). Approximately ten years later, Bartlett filed an I.C.R 35 motion for correction of an illegal sentence, which the district court denied. Bartlett also filed a motion for reconsideration of the denial of his Rule 35 motion, which the district court also denied. Bartlett appeals.

In his Rule 35 motion and on appeal, Bartlett asserts that his sentence is illegal. Bartlett asserts that his correct sentence would be twenty years (fifteen years for sexual abuse pursuant to I.C. § 18-1506 at the time of sentencing and a mandatory minimum of five years for being a persistent violator), followed by an indeterminate term not to exceed life imprisonment. Therefore he claims that the thirty-year minimum period of confinement is illegal.

This Court's opinion in *State v. Griffith*, 157 Idaho 409, 336 P.3d 816 (Ct. App. 2014) resolved Bartlett's interpretation of I.C. § 19-2513(2) adversely to him. Bartlett has failed to show that the district court erred in finding that Bartlett's sentence was lawful. Therefore, the district court properly denied Bartlett's motions and his sentence is well within the statutory maximum for sexual abuse of a minor under sixteen, enhanced for being a persistent violator, and is not otherwise contrary to applicable law. Accordingly, we conclude no abuse of discretion has been shown and the district court's order denying Bartlett's Rule 35 motion is affirmed.