

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 40591

STATE OF IDAHO,)	2013 Unpublished Opinion No. 753
)	
Plaintiff-Respondent,)	Filed: November 19, 2013
)	
v.)	Stephen W. Kenyon, Clerk
)	
JESUS RUDY CALVO-JIMENEZ,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Twin Falls County. Hon. Randy J. Stoker, District Judge.

Appeal from order revoking probation, dismissed.

Sara B. Thomas, State Appellate Public Defender; Shawn F. Wilkerson, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Jessica M. Lorello, Deputy Attorney General, Boise, for respondent.

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

PER CURIAM

Jesus Rudy Calvo-Jimenez pled guilty to aggravated assault with an enhancement for use of a deadly weapon. I.C. §§ 18-905, 18-906, and 19-2520. The parties entered into a binding I.C.R. 11 plea agreement. Pursuant to the agreement and in exchange for Camarillo’s guilty plea, the state dismissed additional charges. Camarillo waived his right to file an I.C.R. 35 motion for reduction of his sentence and waived his right to appeal any issue in his case provided that the district court did not exceed the state’s sentencing recommendation. The district court sentenced Calvo-Jimenez to a unified term of ten years, with a minimum period of confinement of five years. The district court suspended the sentence and placed Calvo-Jimenez on probation. Thereafter, Calvo-Jimenez violated the terms of his probation. The district court revoked Calvo-

Jimenez's probation and ordered execution of his sentence. Calvo-Jimenez appeals, arguing that the district court should have sua sponte reduced the sentence upon revocation of probation.

We hold that Calvo-Jimenez's appellate challenge to the excessiveness of his sentence has been waived by his plea agreement. *See* I.C.R. 11(f)(1); *State v. Rodriguez*, 142 Idaho 786, 787, 133 P.3d 1251, 1252 (Ct. App. 2006). Calvo-Jimenez's plea agreement contained a clause by which Calvo-Jimenez waived his right to appeal his sentence. Accordingly, we dismiss Calvo-Jimenez's appeal.