

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 41239

STATE OF IDAHO,)	2014 Unpublished Opinion No. 406
)	
Plaintiff-Respondent,)	Filed: March 10, 2014
)	
v.)	Stephen W. Kenyon, Clerk
)	
NANETTE MARCIA GAZLAY, aka)	THIS IS AN UNPUBLISHED
ANNETTE MARCIA GAZLAY,)	OPINION AND SHALL NOT
)	BE CITED AS AUTHORITY
Defendant-Appellant.)	
)	

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Cheri C. Copsey, District Judge.

Judgment of conviction and unified sentence of five years, with a minimum period of confinement of two years, for battery on a law enforcement officer, affirmed; order denying I.C.R. 35 motion for reduction of 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; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

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

PER CURIAM

Nanette Marcia Gazlay, aka Annette Marcia Gazlay pled guilty to misdemeanor battery and battery on a law enforcement officer. Idaho Code §§ 18-915(3), 18-903(a). The district court sentenced Gazlay to a concurrent unified term of five years, with a minimum period of confinement of two years for battery on a law enforcement officer.¹ Gazlay filed an Idaho Criminal Rule 35 motion, which the district court denied. Gazlay appeals asserting that the

¹ Gazlay does not appeal her sentence for misdemeanor battery.

district court abused its discretion by imposing an excessive sentence and by denying her 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 Gazlay's 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, Gazlay's judgment of conviction and sentence, and the district court's order denying Gazlay's Rule 35 motion, are affirmed.