

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 41287

STATE OF IDAHO,	)	2014 Unpublished Opinion No. 676
	)	
Plaintiff-Respondent,	)	Filed: August 18, 2014
	)	
v.	)	Stephen W. Kenyon, Clerk
	)	
JOSEPH ADAM WILDER,	)	THIS IS AN UNPUBLISHED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 First Judicial District, State of Idaho, Kootenai County. Hon. Fred M. Gibler, District Judge.

Order relinquishing jurisdiction, affirmed; order denying I.C.R. 35 motion for reduction of sentence, affirmed.

Sara B. Thomas, State Appellate Public Defender; Spencer J. Hahn, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

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

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PER CURIAM

In this case we are asked to determine whether the district court abused its discretion in refusing to grant probation following a period of retained jurisdiction. We are also asked to review a unified sentence of nine years, with a minimum period of confinement of three years, for burglary and an order denying an I.C.R. 35 motion for reduction of sentence. We affirm.

Joseph Adam Wilder pled guilty to burglary. I.C. § 18-1401. Following his plea, Wilder was sentenced to a unified term of nine years, with a minimum period of confinement of three years. The district court retained jurisdiction, and Wilder was sent to participate in the rider program. The jurisdictional review committee recommended relinquishment of jurisdiction. The district court relinquished jurisdiction. Wilder filed an I.C.R. 35 motion for reduction of his

sentence, which the district court denied. Wilder appeals, claiming that the district court erred by refusing to grant probation. He also argues that the sentence is excessive and constitutes an abuse of discretion and that the district court erred in denying Wilder's Rule 35 motion for reduction of his sentence.

We note that the decision to place a defendant on probation or whether, instead, to relinquish jurisdiction over the defendant is a matter within the sound discretion of the district court and will not be overturned on appeal absent an abuse of that discretion. *State v. Hood*, 102 Idaho 711, 712, 639 P.2d 9, 10 (1981); *State v. Lee*, 117 Idaho 203, 205-06, 786 P.2d 594, 596-97 (Ct. App. 1990). The record in this case shows that the district court properly considered the information before it and determined that probation was not appropriate. We hold that Wilder has failed to show that the district court abused its discretion, and we therefore affirm the order relinquishing jurisdiction.

Wilder also contends that the unified sentence nine years, with a minimum period of confinement of three years, is excessive and constitutes an abuse of discretion. Sentences are reviewed for an abuse of discretion. Our appellate standard of review and the factors to be considered when evaluating the reasonableness of a sentence are well-established. *State v. Burdett*, 134 Idaho 271, 1 P.3d 299 (Ct. App. 2000); *State v. Sanchez*, 115 Idaho 776, 769 P.2d 1148 (Ct. App. 1989); *State v. Reinke*, 103 Idaho 771, 653 P.2d 1183 (Ct. App. 1982); *State v. Toohill*, 103 Idaho 565, 650 P.2d 707 (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). Wilder argues that all of the relevant goals of sentencing could have been accomplished with probation. As noted above, however, the district court found that probation was not an appropriate course of action in Wilder's case. The record does not indicate that his sentence was an abuse of discretion in this case.

Wilder also asserts that the district court erred in denying his 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.

Applying the foregoing standards, Wilder has failed to show that the district court abused its discretion. The order of the district court relinquishing jurisdiction, and Wilder's sentence, and the district court's order denying Wilder's Rule 35 motion are affirmed.