

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 41619

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| STATE OF IDAHO, |) | |
| |) | 2014 Opinion No. 658 |
| Plaintiff-Respondent, |) | |
| |) | Filed: August 11, 2014 |
| v. |) | |
| |) | Stephen W. Kenyon, Clerk |
| CHRISTOPHER D. ZENDEJAS, |) | |
| |) | THIS IS AN UNPUBLISHED |
| Defendant-Appellant. |) | OPINION AND SHALL NOT |
| |) | BE CITED AS AUTHORITY |

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Timothy L. Hansen, District Judge.

Order relinquishing jurisdiction and executing unified sentence of ten years, with two years determinate, 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 GUTIERREZ, Chief Judge; GRATTON, Judge;
and MELANSON, Judge

PER CURIAM

Christopher D. Zendejas pled guilty to possession of a controlled substance with intent to deliver. Idaho Code § 37-2732(a). The district court sentenced Zendejas to a unified term of ten years, with two years determinate, and retained jurisdiction. At the review hearing, Zendejas made an oral Idaho Criminal Rule 35 motion, requesting a reduction of the determinate portion of his sentence. The district court relinquished jurisdiction and denied the Rule 35 motion. Zendejas appeals, contending the district court abused its discretion by not reducing his sentence pursuant to Idaho Criminal Rule 35 when it relinquished jurisdiction.

Pursuant to Rule 35, a court may reduce a sentence within 120 days after the court releases retained jurisdiction. A court's decision not to reduce a sentence is reviewed for an abuse of discretion. In conducting our review, we consider the entire record and apply the same reasonableness of the original sentence. *State v. Forde*, 113 Idaho 21, 22, 740 P.2d 63, 64 (Ct. App. 1987); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984). 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).

We find no abuse of discretion in the relinquishment of jurisdiction without modification of the initial sentence. Accordingly, the order relinquishing jurisdiction and requiring execution of Zendejas's sentence is affirmed.