

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 41754 & 41755

STATE OF IDAHO, ) 2014 Unpublished Opinion No. 867  
)  
Plaintiff-Respondent, ) Filed: December 16, 2014  
)  
v. ) Stephen W. Kenyon, Clerk  
)  
JAMES JOSEPH MORALES, ) THIS IS AN UNPUBLISHED  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.

Judgment of conviction and unified sentence of six years, with a minimum period of confinement of three years, for felony injury to a child, affirmed; judgment of conviction and concurrent indeterminate sentences of ten years for three counts of possession of sexually exploitative materials, affirmed; order denying I.C.R. 35 motion for reduction of sentences, affirmed.

Sara B. Thomas, State Appellate Public Defender; Brian R. Dickson, 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; LANSING, Judge;  
and GRATTON, Judge

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PER CURIAM

In Docket No. 41754, James Joseph Morales pled guilty to an amended charge of felony injury to a child. I.C. § 18-1501(2). In exchange for his guilty plea, additional charges were dismissed. The district court sentenced Morales to a unified term of six years, with a minimum period of confinement of three years. The district court suspended the sentence and placed Morales on probation. Morales thereafter violated the terms of his probation, and the district court revoked probation and ordered execution of the previously suspended sentence.

In Docket No. 41755, Morales pled guilty to three counts of possession of sexually exploitative materials. I.C. § 18-1807(2)(a). The district court sentenced Morales to concurrent indeterminate terms of ten years, to run consecutive to his sentence in Docket No. 41754. Morales filed an I.C.R 35 motion for reduction of his sentences in Docket No. 41755, which the district court denied. Morales appeals, asserting that his sentences are excessive in both cases and that the district court erred in denying his 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 Morales'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, Morales's judgments of conviction and sentences, and the district court's order denying Morales's Rule 35 motion, are affirmed.