

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 41829

STATE OF IDAHO,) 2015 Unpublished Opinion No. 353
)
Plaintiff-Respondent,) Filed: February 13, 2015
)
v.) Stephen W. Kenyon, Clerk
)
MONTALE L. BERRY,) THIS IS AN UNPUBLISHED
) OPINION AND SHALL NOT
Defendant-Appellant.) BE CITED AS AUTHORITY
)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Elmore County. Hon. Lynn G. Norton, District Judge.

Judgment of conviction and unified sentence of five years, with a minimum period of confinement of two years, for aggravated assault, affirmed.

Sara B. Thomas, State Appellate Public Defender; Jason C. Pintler, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

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

PER CURIAM

Montale L. Berry was found guilty of aggravated assault. I.C. §§ 18-901, 18-905(a). The district court sentenced Berry to a unified term of five years, with a minimum period of confinement of two years, to run concurrently with an unrelated sentence. Berry filed an I.C.R. 35 motion, which the district court denied. Berry appeals.

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 and need not be repeated here. *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.

Therefore, Berry's judgment of conviction and sentence are affirmed.