

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 42045

STATE OF IDAHO,) 2015 Unpublished Opinion No. 372
)
Plaintiff-Respondent,) Filed: February 25, 2015
)
v.) Stephen W. Kenyon, Clerk
)
JERRY DEAN SMITH, JR,) THIS IS AN UNPUBLISHED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, Ada County. Hon. Patrick H. Owen, District Judge.

Judgment of conviction and suspended unified sentence of four years, with a minimum period of confinement of one year, affirmed.

Sara B. Thomas, State Appellate Public Defender; Reed P. Anderson, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; John C. McKinney, Deputy Attorney General, Boise, for respondent.

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

PER CURIAM

Jerry Dean Smith, Jr. pled guilty to grand theft. I.C. §§ 18-2403(1) and 18-2407(1)(b). In exchange for his guilty plea, additional charges were dismissed. The district court sentenced Smith to a unified term of four years, with a minimum period of confinement of one year. However, the district court suspended the sentence and placed Smith on probation. Smith 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).

Smith also asserts that that the district court abused its discretion in refusing to grant a withheld judgment. The refusal to grant a withheld judgment will not be deemed an abuse of discretion if the trial court has sufficient information to determine that a withheld judgment would be inappropriate. *State v. Edghill*, 134 Idaho 218, 219, 999 P.2d 255, 256 (Ct. App. 2000). Factors that bear on the imposition of sentence also apply in review of the discretionary decision to withhold judgment. *State v. Geier*, 209 Idaho 963, 965, 712 P.2d 664, 666 (Ct. App. 1985). Denial of a withheld judgment may be justified merely by the nature of the crime. *State v. Trejo*, 132 Idaho 872, 880, 979 P.2d 1230, 1238 (Ct. App. 1999) (deliberate shooting showed withheld judgment to have been properly denied).

Applying these standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion. Therefore, Smith's judgment of conviction and sentence are affirmed.