

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 43318/43319

STATE OF IDAHO, ) 2016 Unpublished Opinion No. 388  
 )  
Plaintiff-Respondent, ) Filed: February 11, 2016  
 )  
v. ) Stephen W. Kenyon, Clerk  
 )  
TRACY GRIFFIN-MURRIETA, ) THIS IS AN UNPUBLISHED  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 Seventh Judicial District, State of Idaho, Bonneville County. Hon. Darren B. Simpson, District Judge.

Judgments of conviction and concurrent unified sentences for possession of methamphetamine, affirmed; order denying I.C.R. 35 motion for reduction of sentence, 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.

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

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PER CURIAM

In Docket No. 43318, Tracy Griffin-Murrieta pled guilty to possession of methamphetamine, Idaho Code § 37-2732(c)(1). The district court imposed a unified sentence of seven years, with a minimum period of confinement of three years, and retained jurisdiction. After the period of retained jurisdiction, the district court suspended Griffin-Murrieta's sentence and placed her on probation. Subsequently, a report of probation violation was filed and in Docket No. 43319, Griffin-Murrieta pled guilty to possession of methamphetamine, I.C. § 37-2732(c)(1). The district court revoked probation and ordered execution of the underlying

sentence in Docket No. 43318 and imposed a concurrent unified sentence of seven years, with a minimum period of confinement of two years, in Docket No. 43319. Griffin-Murrieta filed Idaho Criminal Rule 35 motions for reduction of her sentences in both cases, which the district court denied. Griffin-Murrieta appeals, contending that the district court abused its discretion in denying the Rule 35 motion in Docket No. 43318 and that the sentence in Docket No. 43319 is excessive.

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 Griffin-Murrieta'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, Griffin-Murrieta's judgment of conviction and sentence in Docket No. 43319, and the district court's order denying Griffin-Murrieta's Rule 35 motion in Docket No. 43318, are affirmed.