

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 43860 & 43861

STATE OF IDAHO,) 2016 Unpublished Opinion No. 727
)
Plaintiff-Respondent,) Filed: October 13, 2016
)
v.) Stephen W. Kenyon, Clerk
)
JESUS ROCHA URRUTIA, JR.,) THIS IS AN UNPUBLISHED
) OPINION AND SHALL NOT
Defendant-Appellant.) BE CITED AS AUTHORITY
)
_____)

Appeal from the District Court of the Third Judicial District, State of Idaho, Canyon County. Hon. Bradly S. Ford, District Judge.

Judgments of conviction and aggregate unified sentence of twenty-eight years, with a minimum period of confinement of seven years, for grand theft, burglary, aggravated assault, first degree kidnapping, and felony domestic battery with traumatic injury; orders denying I.C.R. 35 motions for reduction of sentences, affirmed.

Eric D. Fredericksen, Interim State Appellate Public Defender; Sally J. Cooley, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Jessica M. Lorello, Deputy Attorney General, Boise, for respondent.

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

PER CURIAM

In these consolidated cases, Jesus Rocha Urrutia, Jr. pled guilty to grand theft, I.C. §§ 18-2403(1) and 18-2407(1)(b); burglary, I.C. § 18-1401; aggravated assault, I.C. §§ 18-901 (b) and 18-905(b); first degree kidnapping, I.C. §§ 18-4501 and 18-4502; and felony domestic battery with traumatic injury, I.C. §§ 18-903(b) and 18-918(2). In exchange for his guilty pleas, additional charges were dismissed. The district court sentenced Urrutia to concurrent unified

terms of five years, with a minimum period of confinement of two years for grand theft; ten years, with a minimum period of confinement of five years, for burglary; five years, with a minimum period of confinement of three years, for aggravated assault; twenty-eight years, with a minimum period of confinement of seven years, for first degree kidnapping; and ten years, with a minimum period of confinement of five years, for felony domestic violence with traumatic injury. Urrutia filed I.C.R 35 motions for reduction of his sentences, which the district court denied. Urrutia 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. *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 Urrutia's Rule 35 motions. 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, Urrutia's judgments of conviction and sentences, and the district court's orders denying Urrutia's Rule 35 motions, are affirmed.