

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 44502

STATE OF IDAHO, ) 2017 Unpublished Opinion No. 522  
 )  
Plaintiff-Respondent, ) Filed: July 18, 2017  
 )  
v. ) Karel A. Lehrman, Clerk  
 )  
CHRISTOPHER PAUL KATZ, ) THIS IS AN UNPUBLISHED  
 ) OPINION AND SHALL NOT  
Defendant-Appellant. ) BE CITED AS AUTHORITY  
 )  
\_\_\_\_\_ )

Appeal from the District Court of the Sixth Judicial District, State of Idaho, Bannock County. Hon. Stephen S. Dunn, District Judge.

Judgment of conviction and concurrent unified sentences of six years, with three years determinate, for sexual exploitation of a child, affirmed; order relinquishing jurisdiction, affirmed; order denying Idaho Criminal Rule 35 motion for reduction of sentence, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Sally J. Cooley, 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 GRATTON, Chief Judge; GUTIERREZ, Judge;  
and HUSKEY, Judge  
\_\_\_\_\_

PER CURIAM

Christopher Paul Katz pled guilty to two counts of sexual exploitation of a child, Idaho Code § 18-1507(2)(a). The district court imposed concurrent unified sentences of six years, with three years determinate. Katz filed an Idaho Criminal Rule 35 motion, which the district court denied. The district court retained jurisdiction, and Katz was sent to participate in the rider program.

After Katz completed his rider, the district court relinquished jurisdiction. Katz appeals, claiming that the district court erred by refusing to grant probation. He also argues that his sentences are excessive and constitute an abuse of discretion and that the district court abused its discretion in denying his Rule 35 motion for reduction of his sentences.

We note that the decision to place a defendant on probation or whether, instead, to relinquish jurisdiction over the defendant is a matter within the sound discretion of the district court and will not be overturned on appeal absent an abuse of that discretion. *State v. Hood*, 102 Idaho 711, 712, 639 P.2d 9, 10 (1981); *State v. Lee*, 117 Idaho 203, 205-06, 786 P.2d 594, 596-97 (Ct. App. 1990). The record in this case shows that the district court properly considered the information before it and determined that probation was not appropriate. We hold that Katz has failed to show that the district court abused its discretion in relinquishing jurisdiction.

Katz also contends that his sentences are excessive and constitute an abuse of discretion. Sentences are reviewed for an abuse of discretion. Our appellate standard of review and the factors to be considered when evaluating the reasonableness of a sentence are well-established. *State v. Burdett*, 134 Idaho 271, 1 P.3d 299 (Ct. App. 2000); *State v. Sanchez*, 115 Idaho 776, 769 P.2d 1148 (Ct. App. 1989); *State v. Reinke*, 103 Idaho 771, 653 P.2d 1183 (Ct. App. 1982); *State v. Toohill*, 103 Idaho 565, 650 P.2d 707 (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).

Katz argues that all of the relevant goals of sentencing could have been accomplished with probation. As noted above, however, the district court found that probation was not an appropriate course of action in Katz's case. The record does not indicate that the district court abused its discretion in sentencing.

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). Upon review of the record, including any new information submitted with Katz's Rule 35 motion, we conclude no abuse of discretion has been shown.

The order of the district court relinquishing jurisdiction and Katz's sentences are affirmed. The district court's order denying Katz's Rule 35 motion for reduction of his sentences is also affirmed.