

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 44547

STATE OF IDAHO,)	2017 Unpublished Opinion No. 547
)	
Plaintiff-Respondent,)	Filed: August 9, 2017
)	
v.)	Karel A. Lehrman, Clerk
)	
JACK J. COONEY, JR.,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Second Judicial District, State of Idaho, Nez Perce County. Hon. Jeff M. Brudie, District Judge.

Judgment of conviction and unified sentence of ten years, with a minimum period of confinement of three years, for felony driving under the influence of alcohol, drugs and/or any other intoxicating substance, affirmed.

Eric D. Fredericksen, 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.

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

PER CURIAM

Jack J. Cooney, Jr. was found guilty of felony driving under the influence of alcohol, drugs and/or any other intoxicating substance, Idaho Code §§ 18-8004(1)(a) and 18-8004(9). The district court imposed a unified ten-year sentence, with three years determinate. Cooney filed a timely Idaho Criminal Rule 35 motion, which the district court denied.¹ Cooney timely appeals, contending that the district court abused its discretion when it declined to place him on probation.

¹ Cooney does not appeal the district court’s denial of his Idaho Criminal Rule 35 motion.

Sentencing is a matter for the trial court's discretion. That discretion includes the trial court's decision regarding whether a defendant should be placed on probation. I.C. § 19-2601(3); *State v. Reber*, 138 Idaho 275, 278, 61 P.3d 632, 635 (Ct. App. 2002). 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). Applying these standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion.

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