

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 44922

STATE OF IDAHO,) 2018 Unpublished Opinion No. 308
)
Plaintiff-Respondent,) Filed: January 8, 2018
)
v.) Karel A. Lehrman, Clerk
)
ROBERT DOUGLAS CRUSE,) THIS IS AN UNPUBLISHED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, Valley County. Hon. Jason D. Scott, District Judge.

Judgment of conviction and unified sentence of fifteen years, with a minimum period of confinement of four years, for lewd conduct with a minor under sixteen, affirmed; order denying I.C.R. 35 motion for reduction of sentence, affirmed.

Michael G. Pierce, Cascade, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

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

PER CURIAM

Robert Douglas Cruse pled guilty to lewd conduct with a minor under sixteen. Idaho Code § 18-1508. The district court sentenced Cruse to a unified term of fifteen years with four years determinate. Cruse filed an Idaho Criminal Rule 35 motion, which the district court denied. Cruse appeals asserting that the district court abused its discretion by imposing sentence rather than placing him on probation and by denying his Rule 35 motion for reduction of sentence.

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 Cruse'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, including any new information submitted with Cruse's Rule 35 motion, we conclude no abuse of discretion has been shown.

Therefore, Cruse's judgment of conviction and sentence, and the district court's order denying Cruse's Rule 35 motion, are affirmed.