

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 45423

STATE OF IDAHO,	)	2018 Unpublished Opinion No. 440
	)	
Plaintiff-Respondent,	)	Filed: May 4, 2018
	)	
v.	)	Karel A. Lehrman, Clerk
	)	
VIRGIL LYNN ECKLEY,	)	THIS IS AN UNPUBLISHED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 Fifth Judicial District, State of Idaho, Twin Falls County. Hon. G. Richard Bevan, District Judge.

Appeal from judgment of conviction and unified sentence of twenty-eight years, with a minimum period of confinement of fourteen years, for one count of lewd conduct with a minor under sixteen, dismissed.

Eric D. Fredericksen, State Appellate Public Defender; Elizabeth A. Allred, 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 GUTIERREZ, Judge; HUSKEY, Judge;  
and LORELLO, Judge

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PER CURIAM

Virgil Lynn Eckley pled guilty to one count of lewd conduct with a minor under sixteen, Idaho Code § 18-1508. The parties entered into a binding Idaho Criminal Rule 11 plea agreement. Pursuant to the agreement and in exchange for Eckley’s guilty plea, the State dismissed additional charges. Eckley waived his right to appeal his sentence.

The district court imposed a unified sentence of twenty-eight years, with a minimum period of confinement of fourteen years. Eckley appeals, contending that the district court abused its discretion by imposing an excessive sentence.

We hold that Eckley's appellate challenge to the excessiveness of his sentence has been waived by his plea agreement. *See* I.C.R. 11(f)(1); *State v. Cope*, 142 Idaho 492, 495-99, 129 P.3d 1241, 1245-49 (2006); *State v. Rodriguez*, 142 Idaho 786, 787, 133 P.3d 1251, 1252 (Ct. App. 2006). Eckley's plea agreement contained a clause by which Eckley waived his right to appeal his sentence unless the district court exceeded the State's recommendation regarding the determinate portion of the sentence, which it did not. Accordingly, we dismiss Eckley's appeal.