

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 45523

STATE OF IDAHO,) 2018 Unpublished Opinion No. 429
)
Plaintiff-Respondent,) Filed: April 19, 2018
)
v.) Karel A. Lehrman, Clerk
)
ROY ANDREW DENMAN,) THIS IS AN UNPUBLISHED
) OPINION AND SHALL NOT
Defendant-Appellant.) BE CITED AS AUTHORITY
)
_____)

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Twin Falls County. Hon. Jon J. Shindurling, District Judge.

Appeal from judgment of conviction and unified sentence of seven years, with a minimum period of confinement of two years, for possession of a controlled substance, dismissed.

Eric D. Fredericksen, State Appellate Public Defender; Jenny C. Swinford, 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; HUSKEY, Judge;
and LORELLO, Judge

PER CURIAM

Roy Andrew Denman pled guilty to possession of a controlled substance. I.C. § 37-2732(c)(1). The parties entered into a binding I.C.R. 11 plea agreement in which Denman agreed to waive the right to appeal his sentence unless the district court exceeded the State's recommendation for a period of retained jurisdiction and a four-year fixed portion of his sentence. The district court sentenced Denman to a unified term of seven years, with a minimum period of confinement of two years. The district court retained jurisdiction and sent Denman to

participate in the rider program. Denman appeals, noting he is mindful of his appeal waiver but nonetheless asserting the district court abused its sentencing discretion.

We hold that Denman'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. Rodriguez*, 142 Idaho 786, 787, 133 P.3d 1251, 1252 (Ct. App. 2006). Denman's plea agreement contained a clause by which Denman waived his right to appeal his sentence. Accordingly, we dismiss Denman's appeal.