

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 45787

STATE OF IDAHO,	)
	) <b>Filed: November 7, 2018</b>
<b>Plaintiff-Respondent,</b>	)
	) <b>Karel A. Lehrman, Clerk</b>
v.	)
	) <b>THIS IS AN UNPUBLISHED</b>
<b>FELIZA RAE FAIRBANKS,</b>	) <b>OPINION AND SHALL NOT</b>
	) <b>BE CITED AS AUTHORITY</b>
<b>Defendant-Appellant.</b>	)
_____	)

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

Appeal from judgment of conviction, dismissed.

Eric D. Fredericksen, State Appellate Public Defender; Liz 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 GRATTON, Chief Judge; GUTIERREZ, Judge;  
and HUSKEY, Judge

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PER CURIAM

Feliza Rae Fairbanks pleaded guilty to possession of a controlled substance, Idaho Code § 37-2732(c)(1). The parties entered into a binding Idaho Criminal Rule 11 plea agreement. Pursuant to the agreement and in exchange for Fairbanks’s guilty plea, the State agreed to recommend a unified seven-year sentence, with three years determinate. Fairbanks waived her right to appeal any issues including the sentence unless the sentence exceeded the recommendations by the State. Pursuant to the plea agreement, the State recommended a unified seven-year sentence, with three years determinate. The district court imposed a unified seven-year sentence, with two years determinate. Fairbanks appeals, contending that the district court abused its discretion by imposing an excessive sentence.

We hold that Fairbanks's appellate challenge to the excessiveness of her sentence has been waived by her 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). Fairbanks's plea agreement contained a clause by which Fairbanks waived her right to appeal her sentence unless the district court imposed sentence with a greater determinate sentence than the State recommended. The district court imposed a shorter determinate sentence than the State recommended. Accordingly, we dismiss Fairbanks's appeal.