

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 46187

STATE OF IDAHO,)
) **Filed: June 6, 2019**
) **Plaintiff-Respondent,**)
) **Karel A. Lehrman, Clerk**
v.)
) **THIS IS AN UNPUBLISHED**
) **ROY DEVALLE RICO, JR.,**) **OPINION AND SHALL NOT**
) **BE CITED AS AUTHORITY**
) **Defendant-Appellant.**)
)

Appeal from the District Court of the Third Judicial District, State of Idaho, Canyon County. Hon. Thomas W. Whitney, District Judge.

Judgment of conviction and unified sentence of thirty years, with a minimum period of confinement of six years, for felony driving under the influence with a persistent violator enhancement, affirmed; order denying I.C.R. 35 motion for reduction of sentence, affirmed.

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 BRAILSFORD, Judge

PER CURIAM

Roy Devalle Rico, Jr. was found guilty of felony driving under the influence with a persistent violator enhancement. Idaho Code §§ 18-8004(1)(A), 18-8005(6), 19-2514. The district court sentenced Rico to a unified term of thirty years with six years determinate. Rico filed an Idaho Criminal Rule 35 motion for reduction of sentence, which the district court denied. Rico appeals asserting that the district court abused its discretion by imposing an excessive sentence and denying this Rule 35 motion.

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 Rico'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). Upon review of the record, including any new information submitted with Rico's Rule 35 motion, we conclude no abuse of discretion has been shown.

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