

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 46355/46402

STATE OF IDAHO,)
)
) **Filed: August 9, 2019**
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) **Karel A. Lehrman, Clerk**
)
) **THIS IS AN UNPUBLISHED**
) **OPINION AND SHALL NOT**
) **BE CITED AS AUTHORITY**
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Appeal from the District Court of the First Judicial District, State of Idaho, Kootenai County. Hon. Fred Gibler; Hon. Scott Wayman, District Judges.

Judgments of conviction and concurrent unified sentences of five years determinate for aiding/abetting aggravated assault, fifteen years indeterminate for discharge of a firearm at an occupied dwelling, and five years determinate for aggravated assault, affirmed; orders denying Idaho Criminal Rule 35 motions for reduction of sentence, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Maya P. Waldron, Deputy Appellate Public Defender, Boise, for appellant.

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

Before HUSKEY, Judge; LORELLO, Judge;
and BRAILSFORD, Judge

PER CURIAM

In consolidated cases, Korey Thomas Hines pled guilty to aiding/abetting aggravated assault, Idaho Code § 18-905 (Docket No. 46355) and to discharge of a firearm at an occupied dwelling, I.C. § 18-3317, and one count of aggravated assault, I.C. §§ 18-901, 18-905, 18-204 (Docket No. 46402). In exchange for his guilty plea, additional charges were dismissed. The district court imposed concurrent sentences of five years determinate for aiding/abetting aggravated assault, fifteen years indeterminate for discharge of a firearm at an occupied

dwelling, and five years determinate for one count of aggravated assault. Hines filed Idaho Criminal Rule 35 motions in both cases, which the district court denied. Hines appeals.

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 Hines's Rule 35 motions. A motion for reduction of sentence under Rule 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 Hines's Rule 35 motions, we conclude no abuse of discretion has been shown. Therefore, Hines's judgments of conviction and sentences, and the district court's orders denying Hines's Rule 35 motions, are affirmed.