

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 46656

STATE OF IDAHO,)
) **Filed: October 9, 2019**
) **Plaintiff-Respondent,**)
) **Karel A. Lehrman, Clerk**
v.)
) **THIS IS AN UNPUBLISHED**
BRADLEY FRANK WHEELER,) **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. Gene A. Petty, District Judge.

Judgment of conviction and unified sentence of fifteen years, with a minimum period of confinement of five years, for battery on a correctional officer and being a persistent violator, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Ben P. McGreevy, 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

Bradley Frank Wheeler was found guilty of battery on a correctional officer, I.C. §§ 18-915(2) and 18-903(b), and being a persistent violator, I.C. § 19-2514. The district court sentenced Wheeler to a unified term of fifteen years, with a minimum period of confinement of five years. Wheeler filed an I.C.R. 35 motion, which the district court denied. Wheeler appeals, arguing that his sentence is excessive and that the district court erred in denying his Rule 35 motion for reduction of sentence.

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 Wheeler's Rule 35 motion. 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 Wheeler's Rule 35 motion, we conclude no abuse of discretion has been shown.

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