

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 46959

STATE OF IDAHO,)
) Filed: October 25, 2019
Plaintiff-Respondent,)
) Karel A. Lehrman, Clerk
v.)
) THIS IS AN UNPUBLISHED
GERRY WAYNE CROSS,) OPINION AND SHALL NOT
) BE CITED AS AUTHORITY
Defendant-Appellant.)
_____)

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

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

Eric D. Fredericksen, State Appellate Public Defender; Elizabeth A. Allred, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

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

PER CURIAM

Gerry Wayne Cross 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. Pursuant to the agreement and in exchange for Cross’s guilty plea, the State agreed to recommend a sentence of seven years, with a minimum period of confinement of two years, and to not file any sentencing enhancements. Cross waived his right to appeal his sentence as long as the district court did not exceed the State’s sentencing recommendation. The district court sentenced Cross to a unified

term of six years, with a minimum period of confinement of two years. Cross appeals, arguing that, although he is mindful of his appeal waiver, his sentence is excessive.

We hold that Cross'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). Accordingly, we dismiss Cross's appeal.