

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 46975/47018/47019

STATE OF IDAHO, )  
 )  
 Plaintiff-Respondent, ) **Filed: August 31, 2020**  
 )  
 v. ) **Melanie Gagnepain, Clerk**  
 )  
 KEVIN KEITH BELL, ) **THIS IS AN UNPUBLISHED**  
 ) **OPINION AND SHALL NOT**  
 ) **BE CITED AS AUTHORITY**  
 Defendant-Appellant. )  
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Appeal from the District Court of the Fifth Judicial District, State of Idaho, Jerome County and Twin Falls County. Hon. John K. Butler, District Judge.

Order revoking probation and executing original sentence, and judgments of conviction and sentences; affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Justin M. Curtis, Deputy Appellate Public Defender, Boise, for appellant.

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

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Before HUSKEY, Chief Judge; GRATTON, Judge;  
and LORELLO, Judge

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PER CURIAM

In 2012, in Docket No. 47495, Kevin Keith Bell entered a guilty plea to felony domestic battery, Idaho Code § 18-918(2). The district court imposed a unified ten-year sentence, with four years determinate, but after Bell successfully completed a period of retained jurisdiction, suspended the sentence and placed Bell on probation. In 2019, in Docket Nos. 47018 and 47019, Bell was found guilty of felony domestic battery, I.C. § 18-918(5), rape, I.C. § 18-6101, and felony influencing a witness, I.C. § 18-2604, during a consolidated jury trial. The district court imposed a determinate ten-year sentence; a unified twenty-year sentence, with ten years determinate; and a five-year determinate sentence, respectively. The district court ordered the

sentences to be served concurrently. In Docket No. 47495, Bell admitted to violating the terms of his probation, and the district court revoked probation and ordered execution of the original sentence. On appeal, Bell does not challenge the district court's decision to revoke probation, but argues the district court abused its discretion by imposing excessive sentences and failing to reduce the determinate portion of his sentence upon revocation of probation.

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 and need not be repeated here. 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).

When we review a sentence that is ordered into execution following a period of probation, we will examine the entire record encompassing events before and after the original judgment. *State v. Hanington*, 148 Idaho 26, 29, 218 P.3d 5, 8 (Ct. App. 2009). We base our review upon the facts existing when the sentence was imposed as well as events occurring between the original sentencing and the revocation of probation. *Id.* Thus, this Court will consider the elements of the record before the trial court that are properly made part of the record on appeal and are relevant to the defendant's contention that the trial court should have reduced the sentence sua sponte upon revocation of probation. *State v. Morgan*, 153 Idaho 618, 621, 288 P.3d 835, 838 (Ct. App. 2012). Applying these standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion.

Therefore, the judgments of conviction and the order revoking probation and directing execution of Bell's previously suspended sentence are affirmed.