

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 47136

STATE OF IDAHO,)
)
) **Filed: December 24, 2019**
)
) **Plaintiff-Respondent,**)
) **Karel A. Lehrman, Clerk**
)
) **v.**)
) **THIS IS AN UNPUBLISHED**
) **TABITHA LIEN MORGAN, aka**) **OPINION AND SHALL NOT**
) **TABITHA LIEN TRUNNELL,**) **BE CITED AS AUTHORITY**
)
) **Defendant-Appellant.**)
)
)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Jonathan Medema, District Judge.

Judgment of conviction and unified sentence of two years, with a minimum period of confinement of one year, for aggravated battery, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Jenny C. Swinford, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Justin R. Porter, Deputy Attorney General, Boise, for respondent.

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

PER CURIAM

Tabitha Lien Morgan, aka Tabitha Lien Trunnell, pled guilty to aggravated battery. I.C. §§ 18-903(a) and 18-907(a). The district court sentenced Morgan to a unified term of two years, with a minimum period of confinement of one year. Morgan filed an I.C.R. 35 motion, which the district court denied. Morgan appeals, arguing that her sentence is excessive and that the district court erred in denying her 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 Morgan'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 Morgan's Rule 35 motion, we conclude no abuse of discretion has been shown.

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