

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 47185

STATE OF IDAHO,)
) **Filed: March 13, 2020**
) **Plaintiff-Respondent,**)
) **Karel A. Lehrman, Clerk**
 v.)
) **THIS IS AN UNPUBLISHED**
 DANIEL DALLAS RASK,) **OPINION AND SHALL NOT**
) **BE CITED AS AUTHORITY**
) **Defendant-Appellant.**)
)

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Cassia County. Hon. Michael P. Tribe, District Judge.

Order relinquishing jurisdiction and sentence and order denying Idaho Criminal Rule 35 motion, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Sally J. Cooley, Deputy Appellate Public Defender, Boise, for appellant.

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

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

PER CURIAM

Daniel Dallas Rask entered an *Alford*¹ plea to burglary, Idaho Code § 18-1401. The district court imposed a unified six-year sentence, with three years determinate. The district court retained jurisdiction, and Rask was sent to participate in the rider program. After Rask completed his rider, the district court relinquished jurisdiction. Rask filed an Idaho Criminal Rule 35 motion, which the district court denied. Rask appeals, claiming the district court erred by relinquishing jurisdiction, imposing an excessive sentence, and denying his I.C.R. 35 motion.

¹ *North Carolina v. Alford*, 500 U.S. 25 (1970).

We note that the decision to place a defendant on probation or whether, instead, to relinquish jurisdiction over the defendant is a matter within the sound discretion of the district court and will not be overturned on appeal absent an abuse of that discretion. *State v. Hood*, 102 Idaho 711, 712, 639 P.2d 9, 10 (1981); *State v. Lee*, 117 Idaho 203, 205-06, 786 P.2d 594, 596-97 (Ct. App. 1990). The record in this case shows that the district court properly considered the information before it and determined that probation was not appropriate. We hold that Rask has failed to show that the district court abused its discretion in relinquishing jurisdiction.

Rask also contends that his sentence is excessive and constitutes an abuse of discretion. Sentences are reviewed for an abuse of discretion. Our appellate standard of review and the factors to be considered when evaluating the reasonableness of a sentence are well-established. *State v. Burdett*, 134 Idaho 271, 1 P.3d 299 (Ct. App. 2000); *State v. Sanchez*, 115 Idaho 776, 769 P.2d 1148 (Ct. App. 1989); *State v. Reinke*, 103 Idaho 771, 653 P.2d 1183 (Ct. App. 1982); *State v. Toohill*, 103 Idaho 565, 650 P.2d 707 (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).

A motion for reduction of sentence under I.C.R. 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 an I.C.R. 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 Rask's I.C.R. 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Rask's I.C.R. 35 motion is affirmed.

The order of the district court relinquishing jurisdiction, Rask's sentence, and the order denying Rask's I.C.R. 35 motion are affirmed.