

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 47596

STATE OF IDAHO,)
) **Filed: June 26, 2020**
) **Plaintiff-Respondent,**)
) **Melanie Gagnepain, Clerk**
v.)
) **THIS IS AN UNPUBLISHED**
) **OPINION AND SHALL NOT**
) **BE CITED AS AUTHORITY**
) **JOEL MICHAEL CLEMENTS,**)
) **Defendant-Appellant.**)
)

Appeal from the District Court of the Third Judicial District, State of Idaho, Payette County. Hon. Susan E. Wiebe, District Judge.

Appeal from judgment of conviction and unified sentence of five years, with a minimum period of confinement of one year, for felony injury to a child, dismissed.

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

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

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

PER CURIAM

Joel Michael Clements pled guilty to one count of felony injury to a child. I.C. § 18-1501(1). In exchange for his guilty plea, an additional charge was dismissed. The parties entered into a binding I.C.R. 11 plea agreement. Pursuant to the agreement and in exchange for Clements's guilty plea, the State agreed to recommend a sentence of five years, with a minimum period of confinement of one year; retained jurisdiction; or probation depending upon the recommendation in the presentence investigation report and a sentence in an unrelated case. In

exchange, Clements waived his right to appeal his sentence as long as the district court did not exceed the sentencing recommendation. The district court sentenced Clements to a unified term of five years, with a minimum period of confinement of one year, but retained jurisdiction. Clements appeals, arguing that, although he is mindful of his appeal waiver, his sentence is excessive.

We hold that Clements'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 Clements's appeal.