

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 47655 & 47656

STATE OF IDAHO,)	
)	Filed: December 24, 2020
Plaintiff-Respondent,)	
)	Melanie Gagnepain, Clerk
v.)	
)	THIS IS AN UNPUBLISHED
DANIEL WAYNE ANDERSON, JR.,)	OPINION AND SHALL NOT
)	BE CITED AS AUTHORITY
Defendant-Appellant.)	
_____)	

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Deborah A. Bail, District Judge.

Judgment of conviction and orders denying Idaho Criminal Rule 35 motion, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Brian R. Dickson, 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 BRAILSFORD, Judge

PER CURIAM

This appeal includes two consolidated cases. In Docket No. 47655, Daniel Wayne Anderson, Jr. pleaded guilty to one count of felony stalking in the first degree, Idaho Code § 18-7905, and two misdemeanor counts of attempted violation of a no contact order, I.C. §§ 18-920, 18-306. For the stalking charge, the district court imposed a unified sentence of five years, with two years determinate, and retained jurisdiction. For each violation of a no contact order charge, the district court imposed six months of local jail. After Anderson successfully completed the period of retained jurisdiction, the district court suspended the sentence and placed Anderson on probation. Anderson subsequently violated the terms of his probation and the district court

continued Anderson on probation. Anderson violated the terms of his probation a second time, and when he was arrested for the violation, he was also found to be in possession of a firearm, resulting in the charge of being a felon in the possession of a firearm, I.C. § 19-2513, in Docket No. 47576. The district court revoked Anderson's probation in Docket No. 47655 and ordered execution of the previously suspended sentence. In Docket No. 47656, Anderson admitted to being a felon in possession of a firearm, and the district court sentenced him to a unified term of five years, with two years determinate, to run concurrently with his sentence in Docket No. 47655. Anderson filed an I.C.R. 35 motion in each case, which the district court denied. Anderson appeals, asserting the district court abused its discretion by imposing an excessive sentence in Docket No. 47656 and by not reducing his sentence pursuant to I.C.R. 35 in both cases.

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 Anderson's I.C.R. 35 motions. 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). Anderson appears to concede he did not support his I.C.R. 35 motions with new or additional information. Regardless, upon review of the record we conclude no abuse of discretion has been shown in the denial of Anderson's I.C.R. 35 motions.

Therefore, the district court's orders denying Anderson's I.C.R. 35 motions in each case are affirmed, and in Docket No. 47656, Anderson's judgment of conviction and sentence is affirmed.