

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 47783 & 47794

STATE OF IDAHO,)
) Filed: November 17, 2020
Plaintiff-Respondent,)
) Melanie Gagnepain, Clerk
v.)
) THIS IS AN UNPUBLISHED
KEVIN JOHN MORAN,) OPINION AND SHALL NOT
) BE CITED AS AUTHORITY
Defendant-Appellant.)
_____)

Appeal from the District Court of the Second Judicial District, State of Idaho, Idaho and Nez Perce Counties. Hon. Gregory FitzMaurice, District Judge.

Judgments of conviction and concurrent unified sentences of three years, with minimum periods of confinement of eighteen months, for four counts of issuing or passing checks without funds, affirmed; orders denying I.C.R. 35 motions for reduction of sentences, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Jacob L. Westerfield, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; John C. McKinney, Deputy Attorney General, Boise, for respondent.

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

PER CURIAM

In these consolidated cases, Kevin John Moran pled guilty to four counts of issuing or passing checks without funds. I.C. § 18-3106(b). In exchange for his guilty pleas, additional charges were dismissed. The district court sentenced Moran to concurrent unified terms of three years, with minimum periods of confinement of eighteen months. The district court retained jurisdiction and sent Moran to participate in the rider program. Thereafter, the district court relinquished jurisdiction. Moran filed I.C.R. 35 motions for reduction of his sentences, which

the district court denied. Moran appeals, arguing that his sentences are excessive and that the district court erred in denying his Rule 35 motions for reduction of his sentences.

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 Moran's Rule 35 motions. 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 Moran's Rule 35 motions, we conclude no abuse of discretion has been shown.

Therefore, Moran's judgments of conviction and sentences, and the district court's orders denying Moran's Rule 35 motions, are affirmed.