

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 47802 & 47819

STATE OF IDAHO,)
)
 Plaintiff-Respondent,) **Filed: January 21, 2021**
)
 v.) **Melanie Gagnepain, Clerk**
)
 CHRISTOPHER PAUL HAYWARD,) **THIS IS AN UNPUBLISHED**
) **OPINION AND SHALL NOT**
) **BE CITED AS AUTHORITY**
 Defendant-Appellant.)
)
)

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Twin Falls County. Hon. Benjamin J. Cluff, District Judge.

Judgments of conviction and unified sentences of nine years, with minimum periods of confinement of three years, for driving under the influence, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Ben P. McGreevy, 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; LORELLO, Judge;
and BRAILSFORD, Judge

PER CURIAM

In these consolidated appeals, Christopher Paul Hayward asserts the district court erred by imposing excessive sentences. In Supreme Court Docket No. 47802, Hayward pleaded guilty to driving under the influence of alcohol (DUI), in violation of Idaho Code § 18-8005, a felony because of three prior DUI convictions. While awaiting sentencing, Hayward was charged with and pleaded guilty to another DUI, also a felony. The district court imposed concurrent sentences of nine years, with three years determinate. Hayward appeals, contending that his sentences are excessive because the district court should have placed him on probation.

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 and need not be repeated here. 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). That discretion includes the trial court's decision regarding whether a defendant should be placed on probation. I.C. § 19-2601(3); *State v. Reber*, 138 Idaho 275, 278, 61 P.3d 632, 635 (Ct. App. 2002). Applying these standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion. The record in this case shows that the district court properly considered the information before it and determined that probation was not appropriate. Therefore, Hayward's judgments of conviction and sentences are affirmed.