

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 47834/48026

STATE OF IDAHO,	)
	) <b>Filed: November 12, 2020</b>
<b>Plaintiff-Respondent,</b>	)
	) <b>Melanie Gagnepain, Clerk</b>
v.	)
	) <b>THIS IS AN UNPUBLISHED</b>
<b>DAKOTA FRANK KELSO,</b>	) <b>OPINION AND SHALL NOT</b>
	) <b>BE CITED AS AUTHORITY</b>
<b>Defendant-Appellant.</b>	)
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Appeal from the District Court of the Seventh Judicial District, State of Idaho, Bonneville County. Hon. Bruce L. Pickett, District Judge.

Judgment of conviction and unified sentence of fifteen years with two years determinate for robbery, affirmed; orders denying Idaho Criminal Rule 35 motions for reduction of sentences for robbery and possession of methamphetamine, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Elizabeth A. Allred, Deputy Appellate Public Defender, Boise, for appellant.

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

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

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PER CURIAM

In Docket No. 48026, Dakota Frank Kelso pled guilty to possession of methamphetamine, Idaho Code § 37-2732(c)(1). The district court imposed a unified sentence of five years with two years determinate, suspended the sentence, and placed Kelso on probation. In Docket No. 47834, Kelso was charged with and pled guilty to robbery, I.C. § 18-6501, in violation of his probation in the possession case. The district court revoked probation in the possession case and imposed a concurrent, unified sentence of fifteen years with two years

determinate in the robbery case. Kelso filed Idaho Criminal Rule 35 motions for reduction of his sentences in both cases, which the district court denied. Kelso appeals, asserting that his robbery sentence is excessive and that the district court abused its discretion in denying his Rule 35 motions.

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

Therefore, Kelso's judgment of conviction and sentence for robbery, and the district court's orders denying Kelso's Rule 35 motions, are affirmed.