

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 47966, 47967 & 48056

STATE OF IDAHO,)
)
 Plaintiff-Respondent,) **Filed: May 10, 2021**
)
 v.) **Melanie Gagnepain, Clerk**
)
 BRANDY KAY FELLOWS,) **THIS IS AN UNPUBLISHED**
) **OPINION AND SHALL NOT**
) **BE CITED AS AUTHORITY**
 Defendant-Appellant.)
)
 _____)

Appeal from the District Court of the First Judicial District, State of Idaho, Bonner and Boundary Counties. Hon. Barbara A. Buchanan, District Judge.

Judgments of conviction and sentences for two counts of burglary and orders denying Idaho Criminal Rule 35 motions, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Justin M. Curtis, 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

Brandy Kay Fellows has three cases in this consolidated appeal. In 2019, in Docket No. 48056, Fellows pleaded guilty to possession of a controlled substance, Idaho Code § 37-2732(c)(1). The district court sentenced Fellows to a unified four-year sentence, with two years determinate, suspended the sentence, and placed her on probation. While on probation in the possession case, Fellows was charged with burglary, I.C. § 18-1401, and grand theft, I.C. § 18-2407(1)(c), in Docket No. 47966. She was charged with another count of burglary, I.C. § 18-1401, in Docket No. 49767. The State dismissed the grand theft charge, and Fellows pleaded guilty to the two counts of burglary and admitted to violating the terms of her probation. In Docket

No. 48056, the district court revoked Fellows' probation and ordered the previously suspended sentence executed. In Docket Nos. 47966 and 47967, the district court imposed unified sentences of five years, with two years determinate, to run concurrently with each other and with the sentence in Docket No. 48056. Fellows filed an Idaho Criminal Rule 35 motion in each case, all of which the district court denied. Fellows appeals and argues the district court abused its discretion by imposing excessive sentences in Docket Nos. 47966 and 47967 and by denying her I.C.R. 35 motions in all three 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 records in these cases, we cannot say that the district court abused its discretion.

Next, we review whether the district court erred in denying Fellows' 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 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 records, including any new information submitted with Fellows' I.C.R. 35 motions, we conclude no abuse of discretion has been shown.

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