

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 48020

STATE OF IDAHO,)
) Filed: January 15, 2021
 Plaintiff-Respondent,)
) Melanie Gagnepain, Clerk
 v.)
) THIS IS AN UNPUBLISHED
 STANLEY GAGE SCRUGGS,) OPINION AND SHALL NOT
) BE CITED AS AUTHORITY
 Defendant-Appellant.)
)

Appeal from the District Court of the Seventh Judicial District, State of Idaho, Bonneville County. Hon. Joel E. Tingey, District Judge.

Order granting I.C.R. 35 motion for reduction of sentence, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Sally J. Cooley, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Justin R. Porter, Deputy Attorney General, Boise, for respondent.

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

PER CURIAM

Stanley Gage Scruggs pled guilty to felony injury to a child. I.C. § 18-1501(1). The district court sentenced Scruggs to a unified term of ten years, with a minimum period of confinement of four years. Scruggs filed an I.C.R. 35 motion, which the district court granted by reducing Scruggs’s sentence to a unified term of ten years, with a minimum period of confinement of three years. Scruggs appeals, arguing that the district court erred in not further reducing his sentence pursuant to his Rule 35 motion.

Initially, we note that a lower court’s decision to grant or deny a Rule 35 motion will not be disturbed in the absence of an abuse of discretion. *State v. Villarreal*, 126 Idaho 277, 281, 882

P.2d 444, 448 (Ct. App. 1994). 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, 822 P.2d 1011 (Ct. App. 1991); *State v. Toohill*, 103 Idaho 565, 650 P.2d 707 (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). Since the district court later modified Scruggs's sentence, pursuant to his Rule 35 motion, we will only review Scruggs's modified sentence for an abuse of discretion. *See State v. McGonigal*, 122 Idaho 939, 940-41, 842 P.2d 275, 276-77 (1992).

Scruggs has the burden of showing a clear abuse of discretion on the part of the district court in failing to further reduce the sentence on Scruggs's Rule 35 motion. *See State v. Cotton*, 100 Idaho 573, 577, 602 P.2d 71, 75 (1979). Scruggs has failed to show such an abuse of discretion. Accordingly, the order of the district court granting Scruggs's Rule 35 motion is affirmed.