

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 48047/48048

STATE OF IDAHO,)
)
) **Filed: May 4, 2021**
)
) **Melanie Gagnepain, Clerk**
)
) **THIS IS AN UNPUBLISHED**
) **OPINION AND SHALL NOT**
) **BE CITED AS AUTHORITY**
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Appeal from the District Court of the First Judicial District, State of Idaho, Shoshone County. Hon. Scott Wayman, District Judge.

Judgments of conviction and concurrent, unified sentences of seven years with three years determinate for possession of methamphetamine and driving under the influence, affirmed; orders denying I.C.R. 35 motions for reduction of sentences, affirmed.

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

Hon. Lawrence G. Wasden, Attorney General; Mark W. Olson, Deputy Attorney General, Boise, for respondent.

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

PER CURIAM

In these consolidated appeals, Brett Allen Suckow pled guilty in Docket No. 48047 to possession of methamphetamine, Idaho Code § 37-2732(c)(1). In exchange for his guilty plea, an additional charge was dismissed. The district court imposed a unified sentence of seven years with three years determinate, suspended the sentence, and placed Suckow on probation. Suckow subsequently violated the terms of his probation by incurring charges in Docket No. 48048. In that case, Suckow pled guilty to felony driving under the influence, I.C. § 18-8005(6), and, in

exchange, additional charges were dismissed. The district court imposed a unified sentence of seven years with three years determinate, revoked probation in Docket No. 48047, and ordered the sentences to run concurrently. Suckow filed Idaho Criminal Rule 35 motions for reduction of his sentences in both cases, which the district court denied. Suckow appeals, contending the district court abused its discretion in imposing an excessive sentence in Docket No. 48048 and in denying his 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 Suckow'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 Suckow's Rule 35 motions, we conclude no abuse of discretion has been shown.

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