

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 48175

STATE OF IDAHO,)
)
 Plaintiff-Respondent,) **Filed: January 7, 2022**
)
 v.) **Melanie Gagnepain, Clerk**
)
 DANNY JOE KRUEGER,) **THIS IS AN UNPUBLISHED**
) **OPINION AND SHALL NOT**
) **BE CITED AS AUTHORITY**
 Defendant-Appellant.)
)
 _____)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Lynn G. Norton, District Judge.

Judgment of conviction and sentence for aggravated assault and use of a deadly weapon during the commission of a felony and order denying Idaho Criminal Rule 35 motion, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Emily M. Joyce, Deputy Appellate Public Defender, Boise, for appellant.

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

Before GRATTON, Judge; HUSKEY, Judge
and BRAILSFORD, Judge

PER CURIAM

Danny Joe Krueger pleaded guilty to aggravated battery, Idaho Code § 18-907, with a sentencing enhancement of using a deadly weapon during the commission of a felony, I.C. § 19-2520. In exchange for his guilty pleas, additional charges were dismissed. The district court imposed an aggregate unified sentence of thirty years, with a minimum period of incarceration of thirteen years. Krueger filed an Idaho Criminal Rule 35 motion, which the district court denied. Krueger appeals.

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). Our role is limited to determining whether reasonable minds could reach the same conclusion as the district court. *State v. Biggs*, 168 Idaho 112, 116, 480 P.3d 150, 154 (Ct. App. 2020). 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 Krueger's I.C.R. 35 motion. 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 an I.C.R. 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 Krueger's I.C.R. 35 motion, we conclude no abuse of discretion has been shown.

Therefore, Krueger's judgment of conviction and sentence, and the district court's order denying Krueger's I.C.R. 35 motion, are affirmed.