

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 48259

STATE OF IDAHO,)
)
 Plaintiff-Respondent,) **Filed: March 9, 2021**
)
 v.) **Melanie Gagnepain, Clerk**
) **THIS IS AN UNPUBLISHED**
 DEMARIEA LEVON DAWKINS,) **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. Peter G. Barton, District Judge.

Judgment of conviction and order denying Idaho Criminal Rule 35 motion, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Jenny Swinford, 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

Demariea Levon Dawkins entered an *Alford*¹ plea to felony malicious injury to property. I.C. § 18-7001(2). In exchange for his guilty plea, additional charges were dismissed. The district court sentenced Dawkins to a unified five-year sentence, with two years determinate. Dawkins filed an Idaho Criminal Rule 35 motion requesting the district court reduce the determinate portion of his sentence to one year, which the district court denied. Dawkins appeals and asserts the district court abused its discretion by imposing an excessive sentence and denying his I.C.R. 35 motion

¹ See *North Carolina v. Alford*, 400 U.S. 25 (1970).

because proper consideration of mitigating factors warranted a lesser sentence, a period of retained jurisdiction, or probation.

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 Dawkins' 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 Dawkins' I.C.R. 35 motion, we conclude no abuse of discretion has been shown.

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