

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 48312

STATE OF IDAHO,)	
)	Filed: May 6, 2021
Plaintiff-Respondent,)	
)	Melanie Gagnepain, Clerk
v.)	
)	THIS IS AN UNPUBLISHED
SEAN SALDATORE HURST, aka SEAN)	OPINION AND SHALL NOT
SALVATORE HURST,)	BE CITED AS AUTHORITY
)	
Defendant-Appellant.)	
_____)	

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Darla Williamson, District Judge.

Judgment of conviction and unified sentence of five years, with four years determinate, for aggravated assault; indeterminate five-year sentence for stalking in the first degree; six months for using a telephone to annoy, harass or offend; and six months for each of two counts of violation of a no contact order affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Kiley A. Heffner, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Andrew V. Wake, Deputy Attorney General, Boise, for respondent.

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

PER CURIAM

Sean Saldatore Hurst pleaded guilty to felony aggravated assault, Idaho Code §§ 18-901, 18-905(a), and stalking in the first degree, I.C. § 18-7905. He also pleaded guilty to misdemeanor using a telephone to annoy, harass, or offend, § I.C. 18-6710, and two counts of violation of a no contact order, I.C. § 18-920. The district court imposed a unified sentence of five years, with four years determinate, for aggravated assault, and a five-year indeterminate sentence for stalking in the first degree, with the sentences running consecutively. The district court imposed six months

of jail for the three misdemeanors to run concurrently with the other sentences. Hurst appeals, contending that his sentences, with no period of retained jurisdiction, are excessive. The Court views Hurst's argument as presenting alternative claims: first, to the length of the sentence, and second, to the lack of opportunity for a period of retained jurisdiction.

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 and need not be repeated here. *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). That discretion includes the trial court's decision regarding the underlying sentence, whether a defendant should be placed on probation, and whether to retain jurisdiction. I.C. § 19-2601(3), (4); *State v. Reber*, 138 Idaho 275, 278, 61 P.3d 632, 635 (Ct. App. 2002); *State v. Lee*, 117 Idaho 203, 205-06, 786 P.2d 594, 596-97 (Ct. App. 1990). The record in this case shows that the district court properly considered the information before it and determined that the sentence imposed, including not retaining jurisdiction, was appropriate. We hold that Hurst has failed to show that the district court abused its discretion when imposing sentence.

Therefore, Hurst's judgment of conviction and sentences are affirmed.