

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 48408

STATE OF IDAHO,)
)
) **Filed: September 1, 2021**
)
) **Melanie Gagnepain, Clerk**
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) **THIS IS AN UNPUBLISHED**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, Kootenai County. Hon. Richard S. Christensen, District Judge.

Judgment of conviction and aggregate, concurrent, unified sentences of life imprisonment, with minimum periods of confinement of thirty-four years, for first degree murder, attempted first degree murder, unlawful possession of a firearm, robbery, and felony eluding a peace officer, affirmed; order denying I.C.R. 35 motion 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; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

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

PER CURIAM

Daniel Vernon Stinson entered *Alford*¹ pleas to first degree murder, I.C. §§ 18-4001 and 18-4003(a)(d), and attempted first degree murder, I.C. §§ 18-4001, 18-4003(a) and 18-306. Stinson also pled guilty to unlawful possession of a firearm, I.C. § 18-3316; robbery, I.C. § 18-6501; and felony eluding an officer, I.C. § 49-1401(2). In exchange for his guilty pleas, additional

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

charges were dismissed including an allegation that he is a persistent violator. The district court sentenced Stinson to a unified term of life imprisonment, with a minimum period of confinement of thirty-four years, for first degree murder; a determinate term of fifteen years for attempted first degree murder; a determinate term of five years, for unlawful possession of a firearm; a unified term of life imprisonment, with a minimum period of confinement of fifteen years, for robbery; and a determinate term of five years for felony eluding a peace officer. The district court ordered the sentences to run concurrently, for an aggregate unified sentence of life imprisonment, with a minimum period of confinement of thirty-four years. Stinson filed an I.C.R. 35 motion, which the district court denied. Stinson appeals, arguing that his sentences are excessive and that the district court abused its discretion in denying his Rule 35 motion 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). 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 Stinson's Rule 35 motion. 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 Stinson's Rule 35 motion, we conclude no abuse of discretion has been shown.

Therefore, Stinson's judgment of conviction and sentences, and the district court's order denying Stinson's Rule 35 motion, are affirmed.