

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 48432

STATE OF IDAHO,)
)
 Plaintiff-Respondent,) **Filed: June 15, 2021**
)
 v.) **Melanie Gagnepain, Clerk**
)
 PEYTON CHARLES MACDONALD,) **THIS IS AN UNPUBLISHED**
) **OPINION AND SHALL NOT**
) **BE CITED AS AUTHORITY**
 Defendant-Appellant.)
)
)

Appeal from the District Court of the First Judicial District, State of Idaho, Kootenai County. Hon. John T. Mitchell, District Judge.

Judgment of conviction and unified sentences for misdemeanor possession of a controlled substance and misdemeanor driving under the influence and order denying Idaho Criminal Rule 35 motion, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Jenny C. Swinford, Deputy Appellate Public Defender, Boise, for appellant.

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

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

PER CURIAM

Peyton Charles MacDonald pleaded guilty to misdemeanor possession of a controlled substance, Idaho Code § 37-2732(c)(3), and misdemeanor driving under the influence (DUI), I.C. § 18-8004. For possession of a controlled substance, the district court imposed 365 days jail with 30 days of discretionary jail time, granted two day credit, and suspended 333 days. For the DUI, the district court imposed 180 days jail with thirty days of discretionary jail time, thirty days to be served immediately, granted two days credit, and suspended 118 days. The district court placed

MacDonald on a two-year term of probation for each charge to be run consecutively. MacDonald filed an Idaho Criminal Rule 35 motion, which the district court denied. MacDonald 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). 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 MacDonald's Rule 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 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 MacDonald's Rule 35 motion, we conclude no abuse of discretion has been shown.

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