

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 48577

STATE OF IDAHO, )  
 )  
 ) **Filed: September 15, 2021**  
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 ) **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 ) **THIS IS AN UNPUBLISHED**  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 Fourth Judicial District, State of Idaho, Ada County. Hon. Nancy A. Baskin, District Judge.

Order of revocation of probation and ordering execution of previously suspended sentence, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Jacob L. Westerfield, Deputy Appellate Public Defender, Boise, for appellant.

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

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

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PER CURIAM

John James King pled guilty to grand theft. I.C. §§ 18-2403(1), 18-2407(1)(b), and 18-2409. The district court sentenced King to a unified term of ten years with two years determinate, awarded credit for 125 days served, and retained jurisdiction. Following the period of retained jurisdiction, the district court placed King on probation for a period of five years. Subsequently, King admitted to violating the terms of the probation. At the disposition hearing, King's counsel requested that the district court commute King's sentence, which the district court denied. The district court then revoked King's probation and ordered execution of the underlying sentence, granting King credit for 658 days served. King appeals, contending that the

district court abused its discretion by executing his sentence instead of commuting the sentence upon revoking probation.

King does not contest the district court's decision to revoke his probation. However, King requested that the district court commute his sentence rather than executing the previously imposed sentence. The district court refused to commute King's sentence and, instead, ordered execution of the previously suspended sentence. A trial court generally has discretion to commute a sentence other than for treason, murder, or where the legislature has imposed a mandatory minimum sentence. I.C. § 19-2601(1); *State v. Brooks*, 131 Idaho 608, 609, 961 P.2d 1211, 1212 (Ct. App. 1998). When a trial court's discretionary decision is reviewed on appeal, the appellate court conducts a multi-tiered inquiry to determine whether the trial court: (1) correctly perceived the issue as one of discretion; (2) acted within the boundaries of such discretion; (3) acted consistently with any legal standards applicable to the specific choices before it; and (4) reached its decision by an exercise of reason. *State v. Herrera*, 164 Idaho 261, 270, 429 P.3d 149, 158 (2018).

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 a 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). 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 the foregoing standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion by denying King's request to have his sentence commuted and ordering execution of King's previously suspended sentence. Therefore, the order directing execution of King's previously suspended sentence is affirmed.