IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 48580

STATE OF IDAHO,	)	
	)	**Filed: September 27, 2021**
Plaintiff-Respondent,	)	
	)	**Melanie Gagnepain, Clerk**
v.	)	
	)	**THIS IS AN UNPUBLISHED**
CHRISTOPHER MAX JONES,	)	**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. Nancy A. Baskin, District Judge.

Order revoking probation, affirmed; order denying I.C.R. 35 motion for reduction of sentence, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Emily M. Joyce, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; John C. McKinney, Deputy Attorney General, Boise, for respondent.

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

PER CURIAM

Christopher Max Jones pled guilty to possession of a controlled substance, I.C. § 37-2732(c). The district court sentenced Jones to a unified term of nine years, with a minimum period of confinement of three years, but after a period of retained jurisdiction, suspended the sentence and placed Jones on probation. Subsequently, Jones admitted to violating the terms of the probation, and the district court consequently revoked probation. The district court ordered execution of Jones's sentence but reduced it to a unified term of eight years, with a minimum period of confinement of three years. Jones requested a further reduction of his sentence, which

the district court denied. On appeal, Jones asserts that the district court erred in revoking his probation and that his modified sentence is excessive and should have been further reduced in response to his I.C.R. 35 motion.

We first address Jones's assertion that the district court erred in revoking his probation. The State responds that any error in the district court's revocation decision was invited in light of Jones's acknowledgment that continuing him on probation was not appropriate. The doctrine of invited error applies to estop a party from asserting an error when that party's conduct induces the commission of the error. *State v. Atkinson*, 124 Idaho 816, 819, 864 P.2d 654, 657 (Ct. App. 1993). The purpose of the doctrine is to prevent a party who caused or played an important role in prompting the trial court to take action from later challenging that decision on appeal. *State v. Barr*, 166 Idaho 783, 786, 463 P.3d 1286, 1289 (2020). At the disposition hearing, counsel for Jones stated: "he understands the Court is going to impose here. There's not much else the Court can do." We agree that Jones invited the error to the extent he acknowledged revocation of his probation was proper and did not ask the district court to continue his probationary period. *See id*.; *see also State v. Garcia-Rodriguez*, 162 Idaho 271, 275, 396 P.3d 700, 704 (2017) (explaining appellate review is limited to the evidence, theories, and arguments that were presented below).

Jones's remaining arguments relate to the length of his sentence and the district court's decision to modify the maximum term from nine years to eight years without further reduction. Jones has failed to show this was an abuse of discretion. When we review a sentence that is ordered into execution following a period of probation, we will examine the entire record encompassing events before and after the original judgment. *State v. Hanington*, 148 Idaho 26, 29, 218 P.3d 5, 8 (Ct. App. 2009). We base our review upon the facts existing when the sentence was imposed as well as events occurring between the original sentencing and the revocation of probation. *Id.* Thus, this Court will consider the elements of the record before the trial court that are properly made part of the record on appeal and are relevant to the defendant's contention that the trial court should have reduced the sentence sua sponte upon revocation of probation. *State v. Morgan*, 153 Idaho 618, 621, 288 P.3d 835, 838 (Ct. App. 2012). 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). In conducting our review of the grant or denial of an I.C.R. 35 motion, we consider the entire record and apply the same criteria used for determining the reasonableness of the original sentence. *State v. Forde*, 113 Idaho 21, 22, 740 P.2d 63, 64 (Ct. App. 1987).

Applying these standards, and having reviewed the record in this case, we cannot say that the district court abused its sentencing discretion. Therefore, the order revoking probation and directing execution of Jones's modified sentence and the district court's order denying his I.C.R. 35 motion are affirmed.