

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 48671/48672

STATE OF IDAHO,)
)
) **Filed: March 15, 2022**
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) **Melanie Gagnepain, Clerk**
)
) **THIS IS AN UNPUBLISHED**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. John T. Mitchell, District Judge.

Judgment of conviction and sentence for one count of sexual abuse of a child and four counts of sexual exploitation of a child in Docket No. 48672, affirmed. The appeal in Docket No. 48671 is dismissed.

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

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

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

PER CURIAM

In these consolidated cases, Robert Conrad Sizemore pled guilty to possession of a controlled substance (heroin) (drug case). Idaho Code § 37-2732(c)(1). The district court withheld judgment and placed Sizemore on supervised probation for a period of two years. Within two weeks, Sizemore admitted to violating his probation and pled guilty to one count of sexual abuse of a child and four counts of sexual exploitation of a child (abuse case). The district court imposed a sentence of three years with one year determinate in the drug case. In the abuse case, the court imposed consecutive sentences of twenty-five years with five years

determinate for sexual abuse of a child, and ten years with three years determinate on each of the four counts of sexual exploitation of a child, for an aggregate of sixty-five years with seventeen years determinate, to be served consecutively to the drug case. Sizemore filed Idaho Criminal Rule 35 motions to reduce his sentences in each case, which the district court denied. Sizemore appeals, but does not claim error in the drug case. Instead, Sizemore contends that the district court abused its discretion in the abuse case by imposing an excessive sentence and by denying his Rule 35 motion.

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). 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).

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, we cannot say that the district court abused its discretion in imposing sentence or in denying Sizemore's Rule 35 motion in the abuse case. Therefore, Sizemore's judgment of conviction and sentence in the abuse case and the district court's order denying Sizemore's Rule 35 motion are affirmed. Sizemore's appeal in the drug case (Docket No. 48671) is dismissed because Sizemore raises no claim in relation to that appeal.