

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 49172

STATE OF IDAHO,)
)
 Plaintiff-Respondent,)
)
 v.)
)
 CYNTHIA THOMPSON,)
)
 Defendant-Appellant.)
)
)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Patrick Miller, District Judge.

Judgment of conviction and unified five-year sentence, with a minimum period of confinement of two years, for obtaining a controlled substance by fraud and/or deception and order denying Idaho Criminal Rule 35 motion, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Justin M. Curtis, 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 HUSKEY, Judge

PER CURIAM

Cynthia Thompson entered an *Alford*¹ plea to obtaining a controlled substance by fraud and/or deception, Idaho Code § 37-2734(a)(3). At the sentencing hearing, both parties requested the district court to follow the plea agreement which included granting Thompson a withheld judgment. The district court did not grant a withheld judgment and imposed a unified sentence of five years, with a minimum period of incarceration of two years, suspended the sentence, and placed Thompson on a term of probation. Thompson filed an Idaho Criminal Rule 35 motion,

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

which the district court denied. Thompson appeals arguing the district court abused its discretion by imposing an excessive sentence by not granting Thompson a withheld judgment and denying her 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. *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 Thompson'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 Thompson's Rule 35 motion, we conclude no abuse of discretion has been shown.

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