

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 49211

STATE OF IDAHO,	)
	) <b>Filed: September 2, 2022</b>
<b>Plaintiff-Respondent,</b>	)
	) <b>Melanie Gagnepain, Clerk</b>
v.	)
	) <b>THIS IS AN UNPUBLISHED</b>
<b>BRET ALLEN WELTY,</b>	) <b>OPINION AND SHALL NOT</b>
	) <b>BE CITED AS AUTHORITY</b>
<b>Defendant-Appellant.</b>	)
_____	)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Derrick O’Neill, District Judge. Hon. Deborah A. Bail, District Judge.

Judgment of conviction and unified sentence of fifteen years with a minimum period of confinement of three years for sexual abuse of a child under the age of sixteen years, affirmed; order denying I.C.R. 35 motion, affirmed.

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.

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

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PER CURIAM

Bret Allen Welty pled guilty to sexual abuse of a child under the age of sixteen years, Idaho Code § 18-1506. In exchange for his guilty plea, additional charges were dismissed. The district court imposed a unified sentence of fifteen years with three years determinate and retained jurisdiction. Following the period of retained jurisdiction, the district court relinquished jurisdiction and directed the underlying sentence be executed. Welty filed an Idaho Criminal Rule 35 motion, which the district court denied. Welty appeals asserting that the district court abused its discretion 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. 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 Welty'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 Welty's Rule 35 motion, we conclude no abuse of discretion has been shown.

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