

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 49234

STATE OF IDAHO, )  
 )  
 ) **Filed: March 1, 2023**  
 )  
 ) **Plaintiff-Respondent,** )  
 ) **Melanie Gagnepain, Clerk**  
 )  
 ) **v.** )  
 ) **THIS IS AN UNPUBLISHED**  
 ) **MICHAEL ANTHONY AQUINO, II,** ) **OPINION AND SHALL NOT**  
 ) **BE CITED AS AUTHORITY**  
 ) **Defendant-Appellant.** )  
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Appeal from the District Court of the First Judicial District, State of Idaho, Kootenai County. Hon. Cynthia K.C. Meyer, District Judge.

Judgment of conviction and concurrent, unified sentences of fifteen years, with minimum periods of confinement of four years, for two counts of sexual abuse of a child under sixteen and being a persistent violator, affirmed; order denying I.C.R. 35 motion for reduction of sentence, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Justin M. Curtis, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Raúl R. Labrador, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

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

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PER CURIAM

Michael Anthony Aquino, II, was found guilty of two counts of sexual abuse of a minor under sixteen, I.C. § 18-1506(1)(b), and was found to be a persistent violator, I.C. § 19-2514. The district court sentenced Aquino to concurrent, unified terms of fifteen years, with minimum periods of confinement of four years. Aquino filed an I.C.R. 35 motion, which the district court denied. Aquino appeals, arguing that his sentences are excessive and that the district court erred in denying his Rule 35 motion for reduction of his sentences.

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 Aquino'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 Aquino's Rule 35 motion, we conclude no abuse of discretion has been shown.

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