

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 49310

STATE OF IDAHO,)
) Filed: August 24, 2022
 Plaintiff-Respondent,)
) Melanie Gagnepain, Clerk
 v.)
) THIS IS AN UNPUBLISHED
 JOSHUA RAY WELDON,) OPINION AND SHALL NOT
) BE CITED AS AUTHORITY
 Defendant-Appellant.)
)
)

Appeal from the District Court of the First Judicial District, State of Idaho, Kootenai County. Hon. Scott L. Wayman and Hon. Barbara Duggan, District Judges.

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

Eric D. Fredericksen, State Appellate Public Defender; Jacob L. Westerfield, 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

Joshua Ray Weldon entered *Alford*¹ pleas to two counts of sexual abuse of a child under sixteen. I.C. § 18-1506. The district court sentenced Weldon to concurrent, unified terms of ten years, with minimum periods of confinement of two years. Weldon filed an I.C.R. 35 motion,

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

which the district court denied. Weldon appeals, arguing that his sentences are excessive and that the district court erred in denying his Rule 35 motion for reduction of 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 Weldon'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 Weldon's Rule 35 motion, we conclude no abuse of discretion has been shown.

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