

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 49394

STATE OF IDAHO,)
) **Filed: July 13, 2022**
 Plaintiff-Respondent,)
) **Melanie Gagnepain, Clerk**
 v.)
) **THIS IS AN UNPUBLISHED**
 JOHN BLAINE THOMAS, JR.,) **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. Rich Christensen, District Judge; Hon. Clark A. Peterson, Magistrate.

Decision of the district court, on intermediate appeal from the magistrate court, affirming judgment of conviction and sentence for disturbing the peace and order denying Idaho Criminal Rule 35 motion for reduction of sentence, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Ben P. McGreevy, 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; HUSKEY, Judge;
and BRAILSFORD, Judge

PER CURIAM

John Blaine Thomas, Jr. pled guilty to disturbing the peace, Idaho Code § 18-6409. In exchange for his guilty plea, an additional charge was dismissed. The magistrate court imposed a sentence of 180 days in jail. Thomas filed an Idaho Criminal Rule 35 motion, which the magistrate court denied. Thomas appealed, and the district court affirmed the decisions of the magistrate court. Thomas appeals.

For an appeal from the district court, sitting in its appellate capacity over a case from the magistrate division, we review the magistrate court record. *State v. Korn*, 148 Idaho 413, 415, 224 P.3d 480, 482 (2009). However, as a matter of appellate procedure, our disposition of the appeal will affirm or reverse the decision of the district court. *State v. Trusdall*, 155 Idaho 965, 968, 318 P.3d 955, 958 (Ct. App. 2014). Thus, we review the sentence the magistrate court imposed, whether the district court affirmed or reversed the magistrate court and the basis therefor, and either affirm or reverse the district court.

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. *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 there was an abuse of discretion.

Next, we review whether the denial of Thomas's Rule 35 motion was in error. A motion for reduction of sentence under Rule 35 is essentially a plea for leniency, addressed to the sound discretion of the trial 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 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 Thomas's Rule 35 motion, we conclude no abuse of discretion has been shown.

Therefore, the district court's decision affirming Thomas's judgment of conviction and sentence and affirming the magistrate court's order denying Thomas's Rule 35 motion, is affirmed.