

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 49625

STATE OF IDAHO,)
)
 Plaintiff-Respondent,) **Filed: March 29, 2023**
)
 v.) **Melanie Gagnepain, Clerk**
) **THIS IS AN UNPUBLISHED**
 DALE MARVIN KELLEY,) **OPINION AND SHALL NOT**
) **BE CITED AS AUTHORITY**
 Defendant-Appellant.)
)
)

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

Judgment of conviction and unified sentence of seven years, with a minimum period of confinement of two years, for possession of a controlled substance and being a persistent violator, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Kimberly A. Coster, Deputy Appellate Public Defender, Boise, for appellant.

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

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

PER CURIAM

Dale Marvin Kelley pled guilty to possession of a controlled substance, I.C. § 37-2732(c)(1), and admitted to being a persistent narcotics law violator, I.C. § 37-2739. The district court sentenced Kelley to a unified term of seven years, with a minimum period of confinement of

two years. The district court retained jurisdiction and sent Kelley to participate in the rider program. Kelley appeals, arguing that his sentence is excessive.¹

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 and need not be repeated here. *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.

Therefore, Kelley's judgment of conviction and sentence are affirmed.

¹ Kelley also pled guilty to and was sentenced for possession of drug paraphernalia. However, he does not challenge this judgment of conviction and sentence on appeal.