

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 50976

STATE OF IDAHO,)
) Filed: August 26, 2024
 Plaintiff-Respondent,)
) Melanie Gagnepain, Clerk
 v.)
) THIS IS AN UNPUBLISHED
 CURTIS EUGENE LEE,) 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. Nancy A. Baskin, District Judge.

Judgment of conviction and suspended unified sentence of fifteen years, with a minimum period of confinement of five years, for sexual battery of a minor child sixteen or seventeen years of age, affirmed.

Erik R. Lehtinen, State Appellate Public Defender; Sally J. Cooley, Deputy Appellate Public Defender, Boise, for appellant.

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

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

PER CURIAM

Curtis Eugene Lee was found guilty of sexual battery of a minor child sixteen or seventeen years of age. Idaho Code § 18-1508A. The district court imposed a unified sentence of fifteen years, with a minimum period of confinement of five years. However, following a period of

retained jurisdiction, the district court suspended the sentence and placed Lee on probation.¹ Lee appeals, arguing that his sentence is excessive.

Mindful that this Court held in Lee's prior appeal that the district court did not abuse its discretion by sentencing Lee for the one count of sexual battery to a unified term of fifteen years, with five years fixed, Lee asserts that his sentence is excessive.

The doctrine of res judicata bars relitigation of issues that have been previously decided in an action between the same litigants. *State v. Rhoades*, 134 Idaho 862, 863, 11 P.3d 481, 482 (2000); *State v. Beam*, 115 Idaho 208, 210-11, 766 P.2d 678, 680-81 (1988). The issue of whether an action is barred by res judicata is a question of law over which we exercise free review. *Rhoades*, 134 Idaho at 863, 11 P.3d at 482. Because Lee argued in his first appeal that his sentences were excessive and because this Court addressed that argument in relation to the one count of sexual battery and concluded it was not excessive, Lee's claim in this appeal that his sentence for one count of sexual battery is excessive is barred by res judicata. Therefore, Lee's judgment of conviction and sentence are affirmed.

¹ Originally, after being found guilty of two counts of sexual battery, the district court sentenced Lee to concurrent, unified terms of fifteen years, with a minimum period of confinement of five years. Lee appealed and prevailed. His judgment of conviction and sentence for the one count was vacated. *State v. Lee*, 172 Idaho 106, 529 P.3d 771 (Ct. App. 2023), *review denied* (June 8, 2023). After the remittitur was issued and without a new sentencing hearing, the district court issued an amended judgment of conviction and order of probation for Lee's sentence on the remaining count. The amended judgment of conviction included the same sentence for one count-unified sentence of fifteen years, with five years fixed, and the sentence was suspended for a fifteen-year period of probation.