

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 51119

STATE OF IDAHO, )  
 ) **Filed: April 23, 2024**  
 Plaintiff-Respondent, )  
 ) **Melanie Gagnepain, Clerk**  
 v. )  
 ) **THIS IS AN UNPUBLISHED**  
 ALAN WILLIAM RAY SMITH, ) **OPINION AND SHALL NOT**  
 ) **BE CITED AS AUTHORITY**  
 Defendant-Appellant. )  
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 )

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Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Peter G. Barton, District Judge.

Judgment of conviction and unified sentence of five years, with a minimum period of incarceration of two years, for felony possession of a controlled substance, affirmed.

Erik R. Lehtinen, State Appellate Public Defender; Jenny C. Swinford, 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 GRATTON, Chief Judge; HUSKEY, Judge;  
and TRIBE, Judge

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PER CURIAM

Alan William Ray Smith pled guilty to felony possession of a controlled substance, Idaho Code § 37-2732(c). The district court imposed a unified sentence of five years, with two years determinate, and retained jurisdiction. Smith appeals, contending that the district court abused its discretion in sentencing. Specifically, Smith argues the district court abused its discretion by failing to place Smith on probation in light of the mitigating factors.

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). That discretion includes the trial court's decision regarding whether a defendant should be placed on probation. I.C. § 19-2601(3), (4); *State v. Reber*, 138 Idaho 275, 278, 61 P.3d 632, 635 (Ct. App. 2002); *State v. Lee*, 117 Idaho 203, 205-06, 786 P.2d 594, 596-97 (Ct. App. 1990). The record in this case shows that the district court properly considered the information before it and determined that probation was not appropriate.

Applying these standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion. Therefore, Smith's judgment of conviction and sentence are affirmed.