

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 51449

STATE OF IDAHO, )  
 )  
 Plaintiff-Respondent, ) **Filed: January 16, 2025**  
 )  
 v. ) **Melanie Gagnepain, Clerk**  
 )  
 ANTONIO FITZGERALD PEREZ, ) **THIS IS AN UNPUBLISHED**  
 ) **OPINION AND SHALL NOT**  
 ) **BE CITED AS AUTHORITY**  
 Defendant-Appellant. )  
 )  
 )

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Appeal from the District Court of the Fifth Judicial District, State of Idaho, Twin Falls County. Hon. Benjamin J. Cluff, District Judge.

Judgment of conviction and unified sentence of eighteen years, with a minimum period of incarceration of eight years, for rape, affirmed.

Erik R. Lehtinen, State Appellate Public Defender; Andrea W. Reynolds, 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 LORELLO, Judge

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PER CURIAM

Antonio Fitzgerald Perez entered an *Alford*<sup>1</sup> plea to rape, victim was asleep or unconscious and incapable of resisting, Idaho Code § 18-6101(7)(a). The district court imposed a unified sentence of eighteen years, with a minimum period of incarceration of eight years. Perez appeals, contending that his sentence is excessive.

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

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

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 and whether to retain jurisdiction. 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). 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 in sentencing or not granting probation. Therefore, Perez's judgment of conviction and sentence are affirmed.