

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 51482

STATE OF IDAHO,)
)
 Plaintiff-Respondent,) **Filed: January 9, 2025**
)
 v.) **Melanie Gagnepain, Clerk**
) **THIS IS AN UNPUBLISHED**
 GREGORY LAWRENCE WOLFF,) **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. Jonathan Medema, District Judge.

Judgment of conviction and unified sentence of fifteen years, with a minimum period of incarceration of five years, for sexual abuse of a child and order denying Idaho Criminal Rule 35 motion, affirmed.

Erik R. Lehtinen, State Appellate Public Defender; Jenny C. Swinford, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Raúl R. Labrador, Attorney General; Kacey L. Jones, Deputy Attorney General, Boise, for respondent.

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

PER CURIAM

Gregory Lawrence Wolff pled guilty to sexual abuse of a child under the age of sixteen years, Idaho Code § 18-1506. In exchange for his guilty plea, an additional charge was dismissed. The district court imposed a unified sentence of fifteen years, with a minimum period of incarceration of five years. Wolff filed an Idaho Criminal Rule 35 motion, which the district court denied. Wolff appeals. Wolff argues that the district court abused its discretion by imposing an excessive sentence or failing to retain jurisdiction. In addition, Wolff argues that the district court abused its discretion by denying his Rule 35 motion.

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 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). The record in this case shows that the district court properly considered the information before it, and we cannot say that the district court abused its discretion when it imposed sentence or determined that retaining jurisdiction was not appropriate.

Next, we review whether the district court erred in denying Wolff's Rule 35 motion. A motion for reduction of sentence under Rule 35 is essentially a plea for leniency, addressed to the sound discretion of the 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 to the district court 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 Wolff's Rule 35 motion, we conclude no abuse of discretion has been shown.

Therefore, Wolff's judgment of conviction and sentence, and the district court's order denying Wolff's Rule 35 motion, are affirmed.