

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 45026

STATE OF IDAHO,) 2017 Unpublished Opinion No. 666
)
Plaintiff-Respondent,) Filed: December 14, 2017
)
v.) Karel A. Lehrman, Clerk
)
DANIEL VALENTINO GUZMAN) THIS IS AN UNPUBLISHED
VARGAS,) 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.

Order granting I.C.R. 35 motion for reduction of sentence, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Sally J. Cooley, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

Before GUTIERREZ, Judge; HUSKEY, Judge;
and LORELLO, Judge

PER CURIAM

Daniel Valentino Guzman Vargas pled guilty to trafficking in marijuana. I.C. § 37-2732B(a)(1). The district court sentenced Vargas to a unified term of eight years, with a minimum period of confinement of two years. Vargas filed an I.C.R 35 motion, which the district court granted, reducing Vargas's sentence to a unified term of eight years, with a minimum period of confinement of one and one-half years. Vargas appeals, arguing the district court erred in not further reducing Vargas's sentence.

Initially, we note that a lower court's decision to grant or deny a Rule 35 motion will not be disturbed in the absence of an abuse of discretion. *State v. Villarreal*, 126 Idaho 277, 281, 882 P.2d 444, 448 (Ct. App. 1994). Both our standard of review and the factors to be considered in evaluating the reasonableness of the sentence are well established. *See State v. Hernandez*, 121 Idaho 114, 822 P.2d 1011 (Ct. App. 1991); *State v. Toohill*, 103 Idaho 565, 650 P.2d 707 (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). Since the district court later modified Vargas's sentence, pursuant to his Rule 35 motion, we will only review Vargas's modified sentence for an abuse of discretion. *See State v. McGonigal*, 122 Idaho 939, 940-41, 842 P.2d 275, 276-77 (1992).

Vargas has the burden of showing a clear abuse of discretion on the part of the district court in failing to further reduce the sentence on Vargas's Rule 35 motion. *See State v. Cotton*, 100 Idaho 573, 577, 602 P.2d 71, 75 (1979). 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 Vargas's Rule 35 motion, we conclude no abuse of discretion has been shown. Accordingly, the order of the district court granting Vargas's Rule 35 motion is affirmed.