

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 40630

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| STATE OF IDAHO, |) | 2014 Unpublished Opinion No. 363 |
| |) | |
| Plaintiff-Respondent, |) | Filed: February 7, 2014 |
| |) | |
| v. |) | Stephen W. Kenyon, Clerk |
| |) | |
| ROBERTO GONZALEZ, |) | THIS IS AN UNPUBLISHED |
| |) | OPINION AND SHALL NOT |
| Defendant-Appellant. |) | BE CITED AS AUTHORITY |
| |) | |

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Michael E. Wetherell, District Judge.

Judgment of conviction and unified sentence of five years, with two years determinate, for grand theft, affirmed.

Sara B. Thomas, State Appellate Public Defender; Spencer J. Hahn, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

Before GUTIERREZ, Chief Judge; LANSING, Judge;
and MELANSON, Judge

PER CURIAM

Roberto Gonzalez was found guilty by a jury of grand theft by possession of stolen property. Idaho Code §§ 18-2403(4), 18-2407(1), 18-2409. The district court sentenced Gonzalez to a unified term of five years, with two years determinate. Gonzalez appeals, contending the district court abused its discretion by imposing an excessive sentence and by failing to retain jurisdiction.

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). 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).

The decision whether to retain jurisdiction is also a matter within the sound discretion of the district court. *State v. Lee*, 117 Idaho 203, 205-06, 786 P.2d 594, 596-97 (Ct. App. 1990). Gonzalez asserts, "[T]he district court abused its discretion when it imposed a unified sentence of five years, with two years fixed, partially on the basis of Mr. Gonzalez's mental health issues, which the district court believed precluded him from consideration for a retained jurisdiction." Contrary to Gonzalez's claim, the record reveals that the district court appropriately considered Gonzalez's mental health and determined that incarceration at the penitentiary would provide the best treatment for Gonzalez's mental health issues.

Applying these standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion either in sentencing Gonzalez or in declining to retain jurisdiction. Therefore, Gonzalez's judgment of conviction and sentence are affirmed.