IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 41665

STATE OF IDAHO,	)	**2014 Unpublished Opinion No. 718**
	)	
Plaintiff-Respondent,	)	**Filed: September 11, 2014**
	)	
v.	)	**Stephen W. Kenyon, Clerk**
	)	
MATTHEW LEE MATYSEK,	)	**THIS IS AN UNPUBLISHED**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 consecutive sentences of ten years determinate, ten years indeterminate, and ten years indeterminate for three counts of sexual exploitation of a child, affirmed; order denying I.C.R. 35 motion for reduction of sentences, affirmed.

Sara B. Thomas, State Appellate Public Defender; Shawn F. Wilkerson, 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 GRATTON, Judge

PER CURIAM

Matthew Lee Matysek was convicted of three counts of sexual exploitation of a child, Idaho Code § 18-1507(2)(a). The State requested a unified thirty-year sentence with five years determinate. The district court, however, imposed a determinate term of ten years for Count I; an indeterminate term of ten years for Count II; and an indeterminate term of ten years for Count III, and ordered that the sentences run consecutively with each other and consecutively with a previously-imposed sentence. Matysek filed an Idaho Criminal Rule 35 motion, which

the district court denied. Matysek appeals, contending that his sentences are unreasonable and that the district court erred in 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. *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 issue presented to this Court is not whether the sentences are ones that we would have imposed, but whether they are plainly excessive under any reasonable view of the facts. *State v. Burdett*, 134 Idaho 271, 279, 1 P.3d 299, 307 (Ct. App. 2000). If reasonable minds might differ as to whether a sentence is excessive, this Court is not free to substitute its view for that of the trial court. *Id.* Applying these standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion.

Next, we review whether the district court erred in denying Matysek's Rule 35 motion. A motion for reduction of sentence under I.C.R. 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). In conducting our review of the grant or denial of a Rule 35 motion, we apply the same criteria used for determining the reasonableness of the original sentence. *State v. Forde*, 113 Idaho 21, 22, 740 P.2d 63, 64 (Ct. App. 1987); *Lopez*, 106 Idaho at 449-51, 680 P.2d at 871-73. Upon review of the record, including any new information submitted with Matysek's Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, Matysek's judgment of conviction and sentences, and the district court's order denying Matysek's Rule 35 motion, are affirmed.