

SUPREME COURT OF IDAHO

State v. Farwell, 144 Idaho 732

170 P.3d 397 (2007) · No. No. 33701 · Decided October 22, 2007

SUMMARY

The Idaho Supreme Court held that the components of a sentence enhanced under Idaho Code section 19-2520 need not be separately articulated because the firearm enhancement is not a separate sentence. The court affirmed Douglas M. Farwell’s unified eight-year sentence, including four years fixed, and held that the sentence was not excessive. It also affirmed denial of Farwell’s Idaho Criminal Rule 35 motion because he presented no new or additional information supporting sentence reduction.

CASE DETAILS

COURT	Supreme Court of Idaho
WRITING FOR THE COURT	Burdick, Justice; Burdick; Eismann; J. Jones; W. Jones; Trout, Senior Judge Pro Tem
JURISDICTION	Idaho
DECIDED	October 22, 2007
DOCKET	No. 33701
DISPOSITION	affirmed
PROCEDURAL POSTURE	The State petitioned for review of an Idaho Court of Appeals decision vacating Farwell's conviction and the denial of his Idaho Criminal Rule 35 motion and remanding for a new sentencing hearing.
STANDARD OF REVIEW	The court reviews questions of law freely. A sentence within statutory limits is reviewed for abuse of discretion. A Rule 35 motion alleging that a sentence within statutory limits is excessive is treated as a plea for leniency and is reviewed for abuse of discretion; the motion must be supported by new or additional information.
PRECEDENTIAL VALUE	Published Idaho Supreme Court opinion; precedential
PARTIES	Douglas M. Farwell v. State of Idaho

TOPICS

- sentencing
- statutory interpretation
- standard of review
- appellate procedure
- post-conviction relief

PRACTICE AREAS

criminal law

sentencing

criminal procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether a sentence enhanced under Idaho Code section 19-2520 must separately articulate the portion attributable to the underlying offense and the portion attributable to the firearm enhancement to be reviewable.
2. Whether Farwell's unified eight-year sentence, with four years fixed, was excessive or an abuse of discretion.
3. Whether the district court properly denied Farwell's Idaho Criminal Rule 35 motion when Farwell presented no new or additional information showing that the sentence was excessive.

HOLDINGS

1. A sentence enhanced under Idaho Code section 19-2520 need not separately articulate the component attributable to the underlying offense and the component attributable to the firearm enhancement. The enhancement is not a separate sentence; it increases the maximum sentence authorized for the underlying crime, and the sentence remains capable of review.
2. Farwell's unified eight-year sentence, with four years fixed, was not excessive and was not an abuse of discretion.
3. The denial of Farwell's Rule 35 motion was proper because he presented no new or additional information showing that his sentence was excessive.

KEY QUOTATIONS

"The firearm enhancement is not a separate sentence, Burnight, 132 Idaho at 658, 978 P.2d at 218, and thus, it need not be separately reviewed." (170 P.3d at 401)

"Finally, we affirm the district court's denial of Farwell's Rule 35 motion because Farwell failed to support his motion with any new or additional information showing the sentence to be excessive." (170 P.3d at 402)

FACTUAL BACKGROUND

Farwell was charged with two aggravated assaults, each with a firearm-use sentencing enhancement. The charges arose from incidents in which Farwell pointed a rifle at occupants of residences and threatened to shoot them. He pleaded guilty to one aggravated-assault count and admitted one firearm enhancement, receiving a unified eight-year sentence with four years fixed. The sentencing court considered the seriousness of the offense, Farwell's criminal history and alcohol-related risk, deterrence, and punishment.

PROCEDURAL HISTORY

Farwell pleaded guilty to aggravated assault and admitted a firearm sentencing enhancement under Idaho Code section 19-2520. The district court imposed a unified eight-year sentence with four years fixed and denied Farwell's Rule 35 motion seeking reduction of the sentence. The Idaho Court of Appeals vacated and remanded,

concluding that the sentence was unreviewable because the court had not separately articulated the underlying-crime and enhancement components. The Idaho Supreme Court granted review and affirmed the sentence and denial of the Rule 35 motion.

DISPOSITION

affirmed

CASES CITED

- Munson v. State, 128 Idaho 639, 917 P.2d 796 (1996)
- State v. Knighton, 143 Idaho 318, 144 P.3d 23 (2006)
- State v. Huffman, 144 Idaho 201, 159 P.3d 838 (2007)
- State v. Dana, 137 Idaho 6, 43 P.3d 765 (2002)
- State v. Burnight, 132 Idaho 654, 978 P.2d 214 (1999)
- State v. Wood, 125 Idaho 911, 876 P.2d 1352 (1994)
- State v. Nice, 103 Idaho 89, 645 P.2d 323 (1982)
- State v. Dallas, 126 Idaho 273, 882 P.2d 440 (Ct. App. 1994)
- State v. Storey, 109 Idaho 993, 712 P.2d 694 (Ct. App. 1985)
- State v. Kaiser, 106 Idaho 501, 681 P.2d 594 (Ct. App. 1984), vacated on other grounds, 108 Idaho 17, 696 P.2d 868 (1985)
- State v. Cardona, 102 Idaho 668, 637 P.2d 1164 (1981)
- State v. Smith, 103 Idaho 135, 645 P.2d 369 (1982)
- State v. Stover, 140 Idaho 927, 104 P.3d 969 (2005)
- State v. Cross, 132 Idaho 667, 978 P.2d 227 (1999)
- State v. Oliver, No. 105 (Idaho Oct. 17, 2007)