

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 41527

STATE OF IDAHO,)	2014 Unpublished Opinion No. 546
)	
Plaintiff-Respondent,)	Filed: June 4, 2014
)	
v.)	Stephen W. Kenyon, Clerk
)	
KIMBERLY ROSE HYATT,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Third Judicial District, State of Idaho, Canyon County. Hon. Molly J. Huskey, District Judge.

Order denying I.C.R. 35 motion for reduction of sentence, 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; GRATTON, Judge;
and MELANSON, Judge

PER CURIAM

Kimberly Rose Hyatt pled guilty to three counts of delivery of a controlled substance. Idaho Code § 37-2732(a)(1)(A). The district court sentenced Hyatt to concurrent unified sentences of twenty years with eight years determinate on each count, and retained jurisdiction. Following the period of retained jurisdiction, the district court relinquished jurisdiction and ordered Hyatt’s underlying sentences executed without reduction. Hyatt filed an Idaho Criminal Rule 35 motion, which the district court denied. Hyatt appeals asserting that the district court abused its discretion by denying her 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. Gill*, 150 Idaho 183, 186, 244 P.3d 1269, 1272 (Ct. App. 2010). 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). An appeal from the denial of a Rule 35 motion cannot be used as a vehicle to review the underlying sentence absent the presentation of new information. *Id.* Because no new or additional information in support of Hyatt's Rule 35 motion was presented, the district court did not abuse its discretion. For the foregoing reasons, the district court's order denying Hyatt's Rule 35 motion is affirmed.