

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 42286

STATE OF IDAHO,)	2014 Unpublished Opinion No. 838
)	
Plaintiff-Respondent,)	Filed: December 3, 2014
)	
v.)	Stephen W. Kenyon, Clerk
)	
CHRISTOPHER ALLEN WORTHLEY,)	THIS IS AN UNPUBLISHED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. Deborah A. Bail, District Judge.

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

Sara B. Thomas, State Appellate Public Defender; Elizabeth A. Allred, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Jessica M. Lorello, Deputy Attorney General, Boise, for respondent.

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

PER CURIAM

Christopher Allen Worthley pled guilty to attempted strangulation and violation of a no contact order. Idaho Code §§ 18-923, 18-920. The district court entered a withheld judgment and placed Worthley on probation for a period of seven years. Subsequently, he violated his probation and the district court revoked his probation and imposed a unified sentence of ten years with three years determinate and retained jurisdiction. After the period of retained jurisdiction, the district court placed Worthley on probation for ten years. Just over a year later, Worthley admitted to again violating his probation. The district court revoked his probation and ordered his underlying sentence executed without reduction. Worthley filed an Idaho Criminal Rule 35 motion, which the district court denied. Worthley appeals asserting that the district court abused its discretion by denying his Rule 35 motion for a reduction of sentence.

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 Worthley's Rule 35 motion was presented, the district court did not abuse its discretion. For the foregoing reasons, the district court's order denying Worthley's Rule 35 motion is affirmed.