

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 42740

STATE OF IDAHO,) 2015 Unpublished Opinion No. 659
)
Plaintiff-Respondent,) Filed: October 16, 2015
)
v.) Stephen W. Kenyon, Clerk
)
VINCENT JOSEPH OLSZEWSKI,) THIS IS AN UNPUBLISHED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.

Order revoking probation and oral motion for Idaho Criminal Rule 35 motion for reduction of sentence, affirmed.

Sara B. Thomas, State Appellate Public Defender; Erik R. Lehtinen, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

Before GUTIERREZ, Judge; GRATTON, Judge;
and HUSKEY, Judge

PER CURIAM

Vincent Joseph Olszewski pled guilty to possession of a controlled substance, felony, Idaho Code § 37-2732(c). The district court imposed a seven year sentence, with three years determinate. After a second probation violation, the district court revoked Olszewski's probation and executed the underlying sentence. During the disposition hearing, Olszewski orally motioned the district court for an Idaho Criminal Rule (I.C.R.) 35 motion for reduction of sentence, which the district court denied. Olszewski appeals.

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 an I.C.R. 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). Upon review of the record, including any new information submitted with Olszewski's I.C.R. 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Olszewski's I.C.R. 35 motion is affirmed.