

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 42843

STATE OF IDAHO, ) 2015 Unpublished Opinion No. 558  
 )  
Plaintiff-Respondent, ) Filed: July 20, 2015  
 )  
v. ) Stephen W. Kenyon, Clerk  
 )  
VON WAYNE WILLIAMS, ) THIS IS AN UNPUBLISHED  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 Idaho Criminal Rule 35 motion for reduction of sentences, affirmed.

Sara B. Thomas, State Appellate Public Defender; Ben P. McGreevy, Deputy Appellate Public Defender, Boise, for appellant.

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

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

PER CURIAM

Von Wayne Williams pled guilty to two counts of possession of sexually exploitative material, Idaho Code §§ 18-1507, 18-1507A. The district court imposed a unified sentence of ten years, with two years determinate, on the first count and a consecutive sentence of five years indeterminate on the second count. The district court then suspended the sentences and placed Williams on probation for fifteen years. Subsequently, Williams admitted to violating several terms of his probation and the district court revoked probation and retained jurisdiction. Upon completion of the retained jurisdiction period, Williams was placed on probation for ten years. Shortly thereafter, Williams admitting to violating the terms of his probation and the district

court revoked probation and ordered execution of Williams' sentences. Williams filed an Idaho Criminal Rule 35 motion, which the district court denied. Williams 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 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 Williams' Rule 35 motion was presented, the district court did not abuse its discretion. For the foregoing reasons, the district court's order denying Williams' Rule 35 motion is affirmed.