

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 40363

STATE OF IDAHO,)	2013 Unpublished Opinion No. 641
)	
Plaintiff-Respondent,)	Filed: August 28, 2013
)	
v.)	Stephen W. Kenyon, Clerk
)	
FRANK C. ALESI,)	THIS IS AN UNPUBLISHED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. Richard D. Greenwood, District Judge.

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

Sara B. Thomas, State Appellate Public Defender; Ben Patrick McGreevy, 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; LANSING, Judge;
and GRATTON, Judge

PER CURIAM

Frank C. Alesi pled guilty to two counts of felony using a telephone to harass. Idaho Code § 18-6710. The district court sentenced Alesi to a unified sentence of five years with two years determinate for the first count and a consecutive sentence of five years indeterminate for the second count. Alesi filed an Idaho Criminal Rule 35 motion, which the district court denied. Alesi appeals asserting that the district court abused its discretion by denying his I.C.R. 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. 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 Alesi's Rule 35 motion was presented, the district court did not abuse its discretion. In addition, the district court's articulation in response to Alesi's motion for reconsideration of its reasoning in denying the motion shows no abuse of discretion. For the foregoing reasons, the district court's order denying Alesi's Rule 35 motion is affirmed.