

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 40465

STATE OF IDAHO,)	2013 Unpublished Opinion No. 632
)	
Plaintiff-Respondent,)	Filed: August 20, 2013
)	
v.)	Stephen W. Kenyon, Clerk
)	
JEFFREY DAVID BELANGER,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Seventh Judicial District, State of Idaho, Bonneville County. Hon. Jon J. Shindurling, District Judge.

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

Stephen D. Thompson, Ketchum, for appellant.

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

Before LANSING, Judge; GRATTON, Judge;
and MELANSON, Judge

PER CURIAM

Jeffrey David Belanger pled guilty to burglary. Idaho Code § 18-1401. The district court sentenced Belanger to a unified sentence of five years with two years determinate and retained jurisdiction. Following the period of retained jurisdiction, the district court placed Belanger on probation. After Belanger twice admitted to violating the terms of his probation, the district court revoked probation and executed the sentence. Belanger filed an Idaho Criminal Rule 35 motion, which the district court denied. Belanger appeals asserting that the district court abused its discretion by denying his Rule 35 motion.¹

¹ Belanger’s notice of appeal also included the district court’s order revoking probation and executing the original sentence as an issue on appeal. Belanger has withdrawn that issue.

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