

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 40535

STATE OF IDAHO,	)	2013 Unpublished Opinion No. 656
	)	
Plaintiff-Respondent,	)	Filed: September 4, 2013
	)	
v.	)	Stephen W. Kenyon, Clerk
	)	
BRANDON SCOTT PETERSON,	)	THIS IS AN UNPUBLISHED
	)	OPINION AND SHALL NOT
Defendant-Appellant.	)	BE CITED AS AUTHORITY
	)	

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Appeal from the District Court of the Sixth Judicial District, State of Idaho, Bannock County. Hon. David C. Nye, District Judge.

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

Sara B. Thomas, State Appellate Public Defender; Justin M. Curtis, Deputy Appellate Public Defender, Boise, for appellant.

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

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

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PER CURIAM

Brandon Scott Peterson pled guilty to grand theft. I.C. §§ 18-2403(1) and 18-2407(1). The district court sentenced Peterson to a unified term of eight years, with a minimum period of confinement of four years, but suspended the sentence and retained jurisdiction. Following completion of the retained jurisdiction, the district court suspended Peterson’s sentence and placed him on probation. Peterson violated the terms of his probation, and the district court revoked probation and reduced Peterson’s sentence to a unified term of seven years, with a minimum period of confinement of three years. Peterson filed an I.C.R 35 motion, which the district court denied. Peterson 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 Peterson's Rule 35 motion was presented, the district court did not abuse its discretion. For the foregoing reasons, the district court's order denying Peterson's Rule 35 motion is affirmed.