

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 40626

STATE OF IDAHO,	)	2013 Unpublished Opinion No. 763
	)	
Plaintiff-Respondent,	)	Filed: November 25, 2013
	)	
v.	)	Stephen W. Kenyon, Clerk
	)	
JOSEPH FRANK JACOBS,	)	THIS IS AN UNPUBLISHED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 Seventh Judicial District, State of Idaho, Bonneville County. Hon. Joel E. Tingey, District Judge.

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

Sara B. Thomas, State Appellate Public Defender; Brian R. Dickson, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

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

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PER CURIAM

Joseph Frank Jacobs pled guilty to burglary. Idaho Code § 18-1401. The district court sentenced Jacobs to a unified term of ten years with three years determinate. The written judgment of conviction included the provision for retained jurisdiction. That statement was in error because the oral pronouncement of sentence did not include a period of retained jurisdiction. Upon being notified of the situation, the district court entered an amended judgment of conviction removing the retained jurisdiction language. Jacobs filed an Idaho Criminal Rule 35 motion requesting a reduction of the indeterminate portion of his sentence and requesting retained jurisdiction. The district court denied Jacobs' request to retain jurisdiction, but it reduced the indeterminate portion of his sentence from seven years to two years, and

entered a second amended judgment of conviction. Jacobs appeals asserting that the district court abused its discretion by failing to retain jurisdiction pursuant to his Rule 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. Gill*, 150 Idaho 183, 186, 244 P.3d 1269, 1272 (Ct. App. 2010). 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). Upon review of the record, including the new information submitted with Jacobs' Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Jacobs' Rule 35 motion is affirmed.