

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 40697

STATE OF IDAHO,)	2014 Unpublished Opinion No. 355
)	
Plaintiff-Respondent,)	Filed: February 7, 2014
)	
v.)	Stephen W. Kenyon, Clerk
)	
DEE FRED HAYES,)	THIS IS AN UNPUBLISHED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 Idaho Criminal Rule 35 motion for reduction of sentence, affirmed.

Sara B. Thomas, State Appellate Public Defender; Erik R. Lehtinen, Chief, Appellate Unit, 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

Dee Fred Hayes pled guilty to criminal possession of a financial transaction card. Idaho Code §§ 18-3125(1), 18-3128(3). The district court sentenced Hayes to a unified term of five years, with one year determinate. Hayes filed an Idaho Criminal Rule 35 motion, which the district court denied. Hayes appeals, contending the district court abused its discretion in denying his Rule 35 motion.

A motion for reduction of sentence under Rule 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). Upon review of the record, including the new information submitted with Hayes' Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Hayes' Rule 35 motion is affirmed.