

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 40778

STATE OF IDAHO,	)	2013 Unpublished Opinion No. 629
	)	
Plaintiff-Respondent,	)	Filed: August 20, 2013
	)	
v.	)	Stephen W. Kenyon, Clerk
	)	
MATTHEW JOHN KEANE,	)	<b>THIS IS AN UNPUBLISHED</b>
	)	<b>OPINION AND SHALL NOT</b>
Defendant-Appellant.	)	<b>BE CITED AS AUTHORITY</b>
	)	

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Appeal from the District Court of the Third Judicial District, State of Idaho, Canyon County. Hon. Molly J. Huskey, District Judge.

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

Sara B. Thomas, State Appellate Public Defender; Elizabeth A. Allred, 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; LANSING, Judge;  
and MELANSON, Judge

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PER CURIAM

Matthew John Keane pled guilty to felony driving under the influence. I.C. §§ 18-8004, 18-8005(5). The district court sentenced Keane to a unified term of ten years, with a minimum period of confinement of four years. However, the district court suspended the sentence and placed Keane on probation. Keane filed an I.C.R 35 motion, which the district court denied. Following several violations of probation, Keane’s probation was revoked and his sentence was ordered into execution. Keane filed a second I.C.R. 35 motion for reduction of his sentence, which the district court also denied. Keane appeals.

Idaho Criminal Rule 35 vests the trial court with jurisdiction to consider and act upon a motion to reduce a sentence that is filed within 120 days after the entry of a judgment of conviction unless that motion is to reduce an illegal sentence. Rule 35 further provides that no

defendant may file more than one motion seeking a reduction of sentence. The prohibition of successive motions under Rule 35 is jurisdictional. *State v. Bottens*, 137 Idaho 730, 732, 52 P.3d 875, 877 (Ct. App. 2002). Because Keane's Rule 35 motion was untimely and prohibitively successive, the district court's order denying Keane's Rule 35 motion is affirmed.