

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 40875

STATE OF IDAHO,)	2013 Unpublished Opinion No. 744
)	
Plaintiff-Respondent,)	Filed: November 8, 2013
)	
v.)	Stephen W. Kenyon, Clerk
)	
JOSHUA FRANKLIN BROWN,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Third Judicial District, State of Idaho, Gem County. Hon. George A. Southworth, District Judge.

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

Sara B. Thomas, State Appellate Public Defender; Ben P. McGreevy, Deputy Appellate Public Defender, Boise, for appellant.

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

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

PER CURIAM

In 2008, Joshua Franklin Brown pled guilty to statutory rape. I.C. § 18-6101(1). The district court sentenced Brown to a unified term of fifteen years, with a minimum period of confinement of four years. In 2009, Brown timely filed an I.C.R 35 motion, which the district court denied. In 2012, Brown filed a second Rule 35 motion, which the district also denied. In March 2013, Brown filed a third Rule 35 motion for reduction of his sentence, which the district court also denied. Brown 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 Brown's Rule 35 motion was untimely and prohibitively successive, the district court's order denying Brown's Rule 35 motion is affirmed.