

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 41116

|                                   |   |                                  |
|-----------------------------------|---|----------------------------------|
| STATE OF IDAHO,                   | ) | 2014 Unpublished Opinion No. 499 |
|                                   | ) |                                  |
| Plaintiff-Respondent,             | ) | Filed: May 9, 2014               |
|                                   | ) |                                  |
| v.                                | ) | Stephen W. Kenyon, Clerk         |
|                                   | ) |                                  |
| EDWARD ISAIAH GARCIA, aka EDDY J. | ) | THIS IS AN UNPUBLISHED           |
| GARCIA, TONY GARCIA, EDWARD       | ) | OPINION AND SHALL NOT            |
| ISAIAH ORT GARCIA,                | ) | BE CITED AS AUTHORITY            |
|                                   | ) |                                  |
| Defendant-Appellant.              | ) |                                  |
|                                   | ) |                                  |

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Appeal from the District Court of the Third Judicial District, State of Idaho, Canyon County. Hon. Juneal C. Kerrick, District Judge.

Order denying Idaho Criminal Rule 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.

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

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PER CURIAM

Edward Isaiah Garcia pled guilty to aggravated assault. Idaho Code §§ 18-901(b), 18-905(a). The district court sentenced Garcia to a unified term of five years, with two years determinate, but suspended the sentence and placed Garcia on probation. Subsequently, Garcia admitted to violating terms of his probation. The district court revoked Garcia’s probation, executed the underlying sentence, and retained jurisdiction. Upon review following Garcia’s period of retained jurisdiction, the district court again suspended the sentence and placed Garcia back on probation. Garcia later admitted to violating terms of his probation, and the district court consequently revoked Garcia’s probation and executed Garcia’s underlying sentence.

Garcia then filed an Idaho Criminal Rule 35 motion, which the district court denied. Garcia appeals, contending the district court abused its discretion by 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 any new information submitted with Garcia's Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Garcia's Rule 35 motion is affirmed.