

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 41146

STATE OF IDAHO,)	2014 Unpublished Opinion No. 410
)	
Plaintiff-Respondent,)	Filed: March 11, 2014
)	
v.)	Stephen W. Kenyon, Clerk
)	
HEATH THOMAS CLYNE,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Melissa Moody, District Judge.

Order denying 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.

Before LANSING, Judge; GRATTON, Judge;
and MELANSON, Judge

PER CURIAM

Heath Thomas Clyne pled guilty to burglary. I.C. § 18-1401. In exchange for his guilty plea, additional charges were dismissed. The district court sentenced Clyne to a unified term of five years, with a minimum period of confinement of one year. The district court retained jurisdiction and Clyne was sent to participate in the rider program. Thereafter, the district court relinquished jurisdiction and ordered execution of Clyne’s sentence. Clyne filed an I.C.R 35 motion, which the district court denied. Clyne appeals.

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. 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). An appeal from the denial of a Rule 35 motion cannot be used as a vehicle to review the underlying sentence absent the presentation of new information. *Id.* Because no new or additional information in support of Clyne's Rule 35 motion was presented, the district court did not abuse its discretion. For the foregoing reasons, the district court's order denying Clyne's Rule 35 motion is affirmed.