

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 41171

STATE OF IDAHO,)	2014 Unpublished Opinion No. 629
)	
Plaintiff-Respondent,)	Filed: July 17, 2014
)	
v.)	Stephen W. Kenyon, Clerk
)	
ARTHUR JOSEPH LOMELIN, JR.,)	THIS IS AN UNPUBLISHED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, Canyon 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; 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.

GUITIERREZ, Chief Judge; LANSING, Judge;
and GRATTON, Judge

PER CURIAM

Arthur Joseph Lomelin, Jr., pled guilty to burglary, Idaho Code § 18-1401. The district court withheld judgment and placed Lomelin on probation for three years. Approximately one year later, Lomelin admitted to violating several terms of his probation. The district court revoked the withheld judgment and probation and imposed a unified four-year sentence with a two-year determinate term, but retained jurisdiction. Upon completion of retained jurisdiction, Lomelin was placed on probation for three years. Subsequently Lomelin admitting to violating the terms of his probation and the district court revoked probation and ordered execution of the underlying sentence. Lomelin filed an Idaho Criminal Rule 35 motion, which the district court denied. Lomelin 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). In conducting our review of the grant or denial of a Rule 35 motion, we apply the same criteria used for determining the reasonableness of the original sentence. *State v. Forde*, 113 Idaho 21, 22, 740 P.2d 63, 64 (Ct. App. 1987); *Lopez*, 106 Idaho at 449-51, 680 P.2d at 871-73. Upon review of the record, including any new information submitted with Lomelin's Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Lomelin's Rule 35 motion is affirmed.