

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 41371/41376

STATE OF IDAHO,)	2014 Unpublished Opinion No. 523
)	
Plaintiff-Respondent,)	Filed: May 23, 2014
)	
v.)	Stephen W. Kenyon, Clerk
)	
IAN FORREST LEMLEY,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the First Judicial District, State of Idaho, Bonner County and Kootenai County. Hon. Barbara A. Buchanan, District Judge. Hon. Lansing L. Haynes, 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; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

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

PER CURIAM

In Docket No. 41371, Ian Forrest Lemley pled guilty to accessory to burglary. Idaho Code §§ 18-1401, 18-2403, 18-2407 and 18-205. The district court sentenced Lemley to a unified sentence of four years with two years determinate and retained jurisdiction. Following the period of retained jurisdiction, the district court suspended Lemley’s sentence and placed him on supervised probation for a period of three years.

In Docket No. 41376, Lemley pled guilty to possession of a controlled substance, I.C. § 37-2732(c)(1). The district court imposed a unified sentence of seven years with three years determinate to run concurrently with the sentence in Docket No. 41371, and retained jurisdiction.

Lemley's probation officer filed a report of violation in Docket No. 41371 following the sentence in Docket No. 41376. Lemley admitted the allegations and the district court revoked his probation, ordered the underlying sentence executed, and retained jurisdiction a second time. Following the period of retained jurisdiction, the district court suspended Lemley's sentences in both cases and placed him on supervised probation for a period of three years.

Subsequently, Lemley admitted to violating several terms of his probation, and the district court consequently revoked probation and ordered execution of the original sentences. In Docket No. 41376 the district court sua sponte reduced Lemley's sentence to a unified sentence of seven years with two years determinate. Lemley filed Idaho Criminal Rule 35 motions in both cases, which the district court denied. Lemley appeals asserting that the district court abused its discretion by denying his Rule 35 motions.

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. Gill*, 150 Idaho 183, 186, 244 P.3d 1269, 1272 (Ct. App. 2010). 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 Lemley's Rule 35 motions, we conclude no abuse of discretion has been shown. Therefore, the district court's orders denying Lemley's Rule 35 motions are affirmed.