

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 41373

STATE OF IDAHO,)	2014 Unpublished Opinion No. 571
)	
Plaintiff-Respondent,)	Filed: June 18, 2014
)	
v.)	Stephen W. Kenyon, Clerk
)	
NICHOLAS DUDLEY, aka NICK)	THIS IS AN UNPUBLISHED
DUDLEY,)	OPINION AND SHALL NOT
)	BE CITED AS AUTHORITY
Defendant-Appellant.)	
)	

Appeal from the District Court of the Third Judicial District, State of Idaho, Canyon County. Hon. Thomas J. Ryan, District Judge.

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

Sara B. Thomas, State Appellate Public Defender; Shawn F. Wilkerson, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

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

PER CURIAM

Nicholas Dudley was convicted of felony domestic battery causing traumatic injury, I.C. §§ 18-903, 18-918(2). The district court sentenced Dudley to a unified term of five years with a minimum period of confinement of two years and retained jurisdiction. Prior to Dudley's completion of the retained jurisdiction period, the district court relinquished jurisdiction and ordered execution of Dudley's sentence. Dudley filed an Idaho Criminal Rule 35 motion, which the district court denied. Dudley 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 Dudley's Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Dudley's Rule 35 motion is affirmed.