

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 41652

| | | |
|-----------------------|---|----------------------------------|
| STATE OF IDAHO, |) | 2014 Unpublished Opinion No. 778 |
| |) | |
| Plaintiff-Respondent, |) | Filed: October 21, 2014 |
| |) | |
| v. |) | Stephen W. Kenyon, Clerk |
| |) | |
| FERNANDO MARTINEZ, |) | THIS IS AN UNPUBLISHED |
| |) | OPINION AND SHALL NOT |
| Defendant-Appellant. |) | BE CITED AS AUTHORITY |
| |) | |

Appeal from the District Court of the Seventh Judicial District, State of Idaho, Bingham County. Hon. Darren B. Simpson, District Judge.

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

Sara B. Thomas, State Appellate Public Defender; Sally J. Cooley, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Ted S. Tollefson, Deputy Attorney General, Boise, for respondent.

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

PER CURIAM

Fernando Martinez pled guilty to felony driving under the influence. Idaho Code §§ 18-8004(1)(a), 18-8005(5). The district court sentenced Martinez to a unified term of nine years with three years determinate. After two periods of retained jurisdiction and multiple periods of probation, the district court revoked his probation and ordered his sentence executed but reduced the unified sentence to eight years with three years determinate. Martinez filed an Idaho Criminal Rule 35 motion and then he filed an amended Rule 35 motion, along with a supporting letter, which the district court denied. Martinez appeals asserting that the district court abused its discretion by denying his amended Rule 35 motion.

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 Martinez's amended Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Martinez's amended Rule 35 motion is affirmed.