

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 42253

STATE OF IDAHO,) 2015 Unpublished Opinion No. 415
)
Plaintiff-Respondent,) Filed: March 17, 2015
)
v.) Stephen W. Kenyon, Clerk
)
SHAWN FRANKLIN RESENDIZ,) THIS IS AN UNPUBLISHED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, Bonneville County. Hon. Joel E. Tingey, District Judge.

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

Sara B. Thomas, State Appellate Public Defender; Justin M. Curtis, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

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

PER CURIAM

Shawn Franklin Resendiz pled guilty to felony fleeing or attempting to elude a peace officer. I.C. § 49-1404(1)(2)(a)(c). The district court sentenced Resendiz to a unified term of three years, with a minimum period of confinement of one year. The district court suspended the sentence and placed Resendiz on probation. Following violation of his probation, the district court revoked probation, but retained jurisdiction and allowed Resendiz to participate in the rider program. Following successful completion of his rider, the district court again placed Resendiz on probation. After Resendiz violated his probation a second time, the district court continued Resendiz on probation with the condition that he complete the drug court program. Resendez was terminated from the drug court program and again violated the terms of his probation. The

district court revoked probation and ordered execution of Resendiz's sentence. Resendiz filed an I.C.R 35 motion, which the district court denied. Resendiz 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). Upon review of the record, including any new information submitted with Resendiz's Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Resendiz's Rule 35 motion is affirmed.