

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 42503

STATE OF IDAHO, ) 2015 Unpublished Opinion No. 488S  
)  
Plaintiff-Respondent, ) Filed: August 14, 2015  
)  
v. ) Stephen W. Kenyon, Clerk  
)  
DIMAS ROBERT NARVAIZ, II, ) SUBSTITUTE OPINION  
) THE COURT'S PRIOR OPINION  
Defendant-Appellant. ) DATED MAY 24, 2015, IS  
) HEREBY WITHDRAWN  
)  
) THIS IS AN UNPUBLISHED  
) OPINION AND SHALL NOT  
) BE CITED AS AUTHORITY

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Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. George D. Carey, District Judge.

Order denying I.C.R. 35 motion for reduction of sentence and order relinquishing jurisdiction, affirmed.

Sara B. Thomas, State Appellate Public Defender; Jason C. Pintler, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Jessica M. Lorello, Deputy Attorney General, Boise, for respondent.

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

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PER CURIAM

Dimas Robert Narvaiz, II, entered an *Alford*<sup>1</sup> plea to attempted strangulation. I.C. § 18-923. In exchange for his guilty plea, an additional charge was dismissed. The district court

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<sup>1</sup> See *North Carolina v. Alford*, 400 U.S. 25 (1970).

sentenced Narvaiz to a unified term of fifteen years, with a minimum period of confinement of three years, to run concurrent with an unrelated sentence. The district court retained jurisdiction, and Narvaiz was sent to participate in the rider program.

After Narvaiz completed his rider, he moved the district court for an I.C.R. 35 reduction of sentence. The district court relinquished jurisdiction without reducing Narvaiz's sentence. Narvaiz appeals, claiming that the district court erred in denying Narvaiz's Rule 35 motion for reduction of sentence.

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 Narvaiz's Rule 35 motion, we conclude no abuse of discretion has been shown. The order of the district court denying Narvaiz's Rule 35 motion for reduction of sentence and the order relinquishing jurisdiction without modification are affirmed.