

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 42755

STATE OF IDAHO,) 2015 Unpublished Opinion No. 646
)
Plaintiff-Respondent,) Filed: September 29, 2015
)
v.) Stephen W. Kenyon, Clerk
)
BENNY SANCHEZ,) THIS IS AN UNPUBLISHED
) OPINION AND SHALL NOT
Defendant-Appellant.) BE CITED AS AUTHORITY
)
_____)

Appeal from the District Court of the Third Judicial District, State of Idaho, Canyon County. Hon. George A. Southworth, District Judge.

Order denying I.C.R. 35 motion, affirmed.

Sara B. Thomas, State Appellate Public Defender; Sally J. Cooley, 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

Benny Sanchez pled guilty to eluding a peace officer. Idaho Code § 37-2732(c)(1). The district court sentenced Sanchez to unified term of five years with two and one-half years determinate and retained jurisdiction. After the period of retained jurisdiction, the district court suspended Sanchez's sentence and placed him on probation for a period of four years. Subsequently, Sanchez admitted to violating his probation and the district court revoked his probation and ordered his underlying sentence executed, but once again retained jurisdiction. Following the second period of retained jurisdiction, the district court relinquished jurisdiction and ordered Sanchez's sentence executed without reduction. Sanchez filed an Idaho Criminal

Rule 35 motion, which the district court denied. Sanchez appeals asserting that the district court abused its discretion by denying his 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 Sanchez's Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Sanchez's Rule 35 motion is affirmed.