

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 43137

STATE OF IDAHO,) 2016 Unpublished Opinion No. 606
)
Plaintiff-Respondent,) Filed: July 18, 2016
)
v.) Stephen W. Kenyon, Clerk
)
TYLER JACOB BROTHERTON,) THIS IS AN UNPUBLISHED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. Molly J. Huskey, District Judge.

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

Eric D. Fredericksen, Interim State Appellate Public Defender; Jason C. Pintler, Deputy Appellate Public Defender, Boise, for appellant.

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

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

PER CURIAM

Tyler Jacob Brotherton was found guilty of intimidating a witness. Idaho Code § 18-2604. The district court sentenced Brotherton to a unified term of four years with two years determinate and retained jurisdiction. The district court later relinquished jurisdiction. Brotherton filed an Idaho Criminal Rule 35 motion requesting the determinate portion of his sentence be reduced. The district court denied the motion. Brotherton 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. 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 Brotherton's Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Brotherton's Rule 35 motion is affirmed.