

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 43206

STATE OF IDAHO,) 2015 Unpublished Opinion No. 719
)
Plaintiff-Respondent,) Filed: November 17, 2015
)
v.) Stephen W. Kenyon, Clerk
)
JOHN WILLIAM PEPPARD,) THIS IS AN UNPUBLISHED
) OPINION AND SHALL NOT
Defendant-Appellant.) BE CITED AS AUTHORITY
)
_____)

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, affirmed.

Sara B. Thomas, State Appellate Public Defender; Jenny C. Swinford, Deputy Appellate Public Defender, Boise, for appellant.

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

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

PER CURIAM

John William Peppard pled guilty to felony domestic violence. I.C. §§ 18-903 and 18-918(3). The district court sentenced Peppard to a unified term of ten years, with a minimum period of confinement of one year. The district court suspended the sentence and placed Peppard on probation. Peppard violated his probation, served a period of retained jurisdiction, and again violated his probation. Following the second probation violation, the district court revoked probation and ordered execution of Peppard's original sentence. Peppard filed an untimely I.C.R. 35 motion, which the district court denied. Peppard appeals.

Idaho Criminal Rule 35 provides that a district court has discretion to consider and act upon a motion filed within fourteen days of the order revoking probation. The filing limitations provided by Rule 35 are a jurisdictional limit on the authority of the court to consider the motion and, unless filed within the period, a district court lacks jurisdiction to grant any relief. *State v. Sutton*, 113 Idaho 832, 833, 748 P.2d 416, 417 (Ct. App. 1987). In this case, Peppard acknowledges that his Rule 35 motion for reduction of sentence was untimely. Because Peppard's Rule 35 motion was not filed within the fourteen-day limitation provided by the rule, the district court lacked jurisdiction to consider it. Accordingly, we do not address the merits of Peppard's Rule 35 motion. Therefore, the district court's order denying Peppard's Rule 35 motion is affirmed.