

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 43230

STATE OF IDAHO,) 2015 Unpublished Opinion No. 721
)
Plaintiff-Respondent,) Filed: November 17, 2015
)
v.) Stephen W. Kenyon, Clerk
)
RUHUDDIN SHARAFI,) THIS IS AN UNPUBLISHED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. Deborah A. Bail, District Judge.

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

Sara B. Thomas, State Appellate Public Defender; Jenevieve C. Swinford, 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 HUSKEY, Judge

PER CURIAM

Ruhuddin Sharafi pled guilty to burglary, Idaho Code § 18-1401. The district court withheld judgment, placed Sharafi on probation for seven years, and ordered him to successfully complete Mental Health Court. Subsequently, Sharafi admitted to violating probation by failing to complete Mental Health Court. The district court revoked the withheld judgment and probation and imposed a unified sentence of five years, with a minimum term of confinement of two years, but after a period of retained jurisdiction, suspended the sentence and reinstated probation. Sharafi again admitted to violating his probation, and the district court revoked probation and ordered execution of the underlying sentence. Sharafi filed an Idaho Criminal Rule 35 motion, which the district court denied. Sharafi 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). An appeal from the denial of a Rule 35 motion cannot be used as a vehicle to review the underlying sentence absent the presentation of new information. *Id.* Because no new or additional information in support of Sharafi's Rule 35 motion was presented, the district court did not abuse its discretion. For the foregoing reasons, the district court's order denying Sharafi's Rule 35 motion is affirmed.