

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 43535

STATE OF IDAHO,) 2016 Unpublished Opinion No. 452
)
Plaintiff-Respondent,) Filed: March 28, 2016
)
v.) Stephen W. Kenyon, Clerk
)
JUAN CARLOS GOMEZ,) THIS IS AN UNPUBLISHED
) OPINION AND SHALL NOT
Defendant-Appellant.) BE CITED AS AUTHORITY
)

Appeal from the District Court of the Seventh Judicial District, State of Idaho, Bonneville County. Hon. Dane H. Watkins, Jr., District Judge.

Appeal, dismissed.

Sara B. Thomas, State Appellate Public Defender; Andrea W. Reynolds, 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; GRATTON, Judge;
and HUSKEY, Judge

PER CURIAM

Juan Carlos Gomez pled guilty to statutory rape. Idaho Code § 18-6101(1). The district court imposed a unified sentence of seven years with one year determinate, but after a period of retained jurisdiction, suspended the sentence and placed Gomez on supervised probation for a period of four years. Subsequently, Gomez admitted to violating the terms of the probation, and on May 27, 2015, the district court consequently revoked probation and ordered execution of the original sentence. Fifteen days later, on June 11, 2015, Gomez filed an Idaho Criminal Rule 35 motion for a reduction of sentence. The district court denied Gomez's Rule 35 motion on August 14, 2015. On August 20, 2015, Gomez filed an appeal. Gomez does not challenge the

district court's denial of the Rule 35 motion, he appeals contending that the district court abused its discretion by revoking the probation.

The untimely filing of a Rule 35 motion does not extend the time for filing an appeal from the order revoking probation. Gomez filed his notice of appeal on August 20, 2015, which was eighty-five days after the district court entered its order revoking probation. Therefore, the appeal was not timely filed and the appeal is dismissed.