

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 43572

STATE OF IDAHO,)	2016 Unpublished Opinion No. 464
)	
Plaintiff-Respondent,)	Filed: April 4, 2016
)	
v.)	Stephen W. Kenyon, Clerk
)	
BYRON T. BAIN,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Blaine County. Hon. Jonathan P. Brody, District Judge.

Order denying Idaho Criminal Rule 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 GRATTON, Judge

PER CURIAM

Byron T. Bain pled guilty to felony driving under the influence, Idaho Code §§ 18-8004, 18-8005. The district court imposed a unified sentence of ten years, with a minimum period of confinement of three years, to run concurrently with a previously imposed sentence in a separate case. Bain filed an Idaho Criminal Rule 35 motion for reduction of sentence, which the district court denied. Bain 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). Upon review of the record, including any new information submitted with Bain's Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Bain's Rule 35 motion is affirmed.