

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 43574

STATE OF IDAHO,) 2016 Unpublished Opinion No. 480
)
Plaintiff-Respondent,) Filed: April 12, 2016
)
v.) Stephen W. Kenyon, Clerk
)
ROBERT JAMES ELAM,) THIS IS AN UNPUBLISHED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 Idaho Criminal Rule 35 motion for reduction of sentence, affirmed.

Sara B. Thomas, State Appellate Public Defender; Sally J. Cooley, 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

Robert James Elam pled guilty to one count of possession of methamphetamine, Idaho Code § 37-2732(c). The district court imposed a unified sentence of seven years, with a minimum period of confinement of two years, suspended the sentence and placed Elam on supervised probation for seven years. Subsequently, Elam admitted to violating the terms of his probation, and the district court consequently revoked probation, ordered execution of the original sentence, and retained jurisdiction. Upon completion of retained jurisdiction, Elam was returned to supervised probation. Following a report of probation violation, the district court revoked Elam's probation and ordered the underlying sentence executed. Elam filed an Idaho

Criminal Rule 35 motion for reduction of sentence, which the district court denied. Elam 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 Elam's Rule 35 motion was presented, the district court did not abuse its discretion. For the foregoing reasons, the district court's order denying Elam's Rule 35 motion is affirmed.