

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 43587

STATE OF IDAHO,) 2016 Unpublished Opinion No. 434
)
Plaintiff-Respondent,) Filed: March 16, 2016
)
v.) Stephen W. Kenyon, Clerk
)
RYAN NICHOLAS McGARVIN,) THIS IS AN UNPUBLISHED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. Melissa Moody, District Judge.

Order denying Idaho Criminal Rule 35 motion for reduction of sentence, affirmed.

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; GUTIERREZ, Judge;
and GRATTON, Judge

PER CURIAM

Ryan Nicholas McGarvin pled guilty to possession of heroin, Idaho Code § 37-2732(c), and misdemeanor operating a motor vehicle while under the influence of drugs and/or intoxicating substances, I.C. § 18-8004. The district court imposed a unified sentence of seven years, with a minimum period of confinement of two years, for possession of heroin and a concurrent sentence of 365 days in the Ada County jail for the misdemeanor. McGarvin filed an Idaho Criminal Rule 35 motion for reduction of the possession sentence, which the district court denied. McGarvin 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 McGarvin's Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying McGarvin's Rule 35 motion is affirmed.