

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 43593

STATE OF IDAHO,)	2016 Unpublished Opinion No. 498
)	
Plaintiff-Respondent,)	Filed: April 22, 2016
)	
v.)	Stephen W. Kenyon, Clerk
)	
CODY EUGENE CUTHBERT,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Sixth Judicial District, State of Idaho, Bannock County. Hon. Stephen S. Dunn, District Judge.

Order denying Idaho Criminal Rule 35, affirmed.

Sara B. Thomas, State Appellate Public Defender; Brian R. Dickson, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

Before GUTIERREZ, Judge; GRATTON, Judge;
and HUSKEY, Judge

PER CURIAM

Cody Eugene Cuthbert pleaded guilty to injury to children, Idaho Code § 18-1501(1). The district court imposed a unified ten-year sentence, with three years determinate. The district court retained jurisdiction, and Cuthbert was sent to participate in the rider program. After Cuthbert completed his rider, the district court relinquished jurisdiction. Cuthbert filed an Idaho Criminal Rule 35 motion, which the district court denied. Cuthbert appeals, claiming that the district court abused its discretion by denying his I.C.R. 35 motion.

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 an I.C.R. 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 Cuthbert's I.C.R. 35 motion, we conclude no abuse of discretion has been shown.

The order denying Cuthbert's I.C.R. 35 motion is affirmed.