

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 43606/43607/43608

STATE OF IDAHO,	)	2016 Unpublished Opinion No. 475
	)	
Plaintiff-Respondent,	)	Filed: April 11, 2016
	)	
v.	)	Stephen W. Kenyon, Clerk
	)	
CRYSTAL ANNE NORTON aka MAY,	)	THIS IS AN UNPUBLISHED
	)	OPINION AND SHALL NOT
Defendant-Appellant.	)	BE CITED AS AUTHORITY
	)	

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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, 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.

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

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PER CURIAM

In docket no. 43606, in June of 2007, Norton pleaded guilty to felony operating a motor vehicle while under the influence of alcohol (two or more within ten years), felony, Idaho Code §§ 18-8004, 8005(5). The district court entered a withheld judgment and placed Norton on probation. On two occasions, Norton violated the terms of her probation, but was continued on probation.

In late 2011, Norton admitted to violating the terms of her probation, which included new criminal charges contained in docket no. 43607. In docket no. 43606, the district court revoked Norton’s withheld judgment and probation, entered a judgment of conviction, imposed a unified seven-year sentence, with two years determinate, and retained jurisdiction. In docket no. 43607,

Norton pleaded guilty to operating a motor vehicle while under the influence of alcohol (one felony conviction within fifteen years), felony, I.C. §§ 18-8004, 8005(9), and the district court imposed a unified ten-year sentence, with two years determinate, to run concurrently with the sentence in docket no. 43606, and retained jurisdiction. After a successful period of retained jurisdiction, the district court placed Norton on probation in both cases.

In 2013 Norton admitted violating the terms of her probation in docket nos. 43606 and 43607, which included new criminal charges contained in docket no. 43608. In docket no. 43608, Norton pleaded guilty to eluding a peace officer, felony, I.C. § 49-1404, and the district court imposed a unified five-year sentence, with two years determinate, to run concurrently with docket nos. 43606 and 43607, suspended the sentence, and retained jurisdiction. In docket nos. 43606 and 43607, the district court revoked probation, imposed the underlying sentences, and retained jurisdiction. After a successful period of retained jurisdiction, the district court placed Norton on probation in all three cases. Thereafter, Norton admitted violating the terms of her probation in all three cases, and the district court revoked probation in each case and imposed the underlying concurrent sentences. Norton filed an Idaho Criminal Rule 35 motion in each case. The district court denied her motions. Norton timely appeals from the denials of her I.C.R. motions.

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, we conclude no abuse of discretion has been shown. Therefore, the district court's orders denying Norton's I.C.R. 35 motions are affirmed.