

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 43714

STATE OF IDAHO, ) 2016 Unpublished Opinion No. 670  
 )  
Plaintiff-Respondent, ) Filed: September 7, 2016  
 )  
v. ) Stephen W. Kenyon, Clerk  
 )  
CHRISTOPHER WAYNE THOMPSON, ) THIS IS AN UNPUBLISHED  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 First Judicial District, State of Idaho, Kootenai County. Hon. Cynthia K. C. Meyer, District Judge.

Order denying I.C.R. 35 motion for reduction of sentence, affirmed.

Eric D. Fredericksen, Interim State Appellate Public Defender; Ben McGreevy, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Jessica M. Lorello, Deputy Attorney General, Boise, for respondent.

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Before MELANSON, Chief Judge; GRATTON, Judge;  
and HUSKEY, Judge

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PER CURIAM

Christopher Wayne Thompson pled guilty to second degree murder. Idaho Code § 18-4001. The district court sentenced Thompson to a unified term of fifty-two years with sixteen years determinate. Thompson filed an I.C.R 35 motion, which the district court denied. Thompson appeals asserting that the district court abused its discretion by denying his Rule 35 motion.

The State argues that the district court did not timely rule on the motion and thereby lacked jurisdiction to consider Thompson’s Rule 35 motion. Thompson notes that the reason for the delay in ruling on the motion was caused, in part, by the retirement of the original sentencing judge. “This court and other appellate courts have mitigated the arbitrary operation of the Rule

by treating the time limit with some flexibility, allowing district courts to retain jurisdiction over timely-filed motions for a ‘reasonable time’ beyond the deadline.” *State v. Torres*, 107 Idaho 895, 897-898, 693 P.2d 1097, 1099-1100 (Ct. App. 1984) (quoting *United States v. Smith*, 650 F.2d 206, 209 (9th Cir. 1981) (citations and footnote omitted).

For purposes of this appeal, this Court will assume that the district court had jurisdiction. 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 Thompson’s Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court’s order denying Thompson’s Rule 35 motion is affirmed.