

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 43768

STATE OF IDAHO, ) 2016 Unpublished Opinion No. 580  
)  
Plaintiff-Respondent, ) Filed: June 22, 2016  
)  
v. ) Stephen W. Kenyon, Clerk  
)  
JUSTIN LEE MCGINNIS, ) THIS IS AN UNPUBLISHED  
) OPINION AND SHALL NOT  
Defendant-Appellant. ) BE CITED AS AUTHORITY  
)

---

Appeal from the District Court of the Third Judicial District, State of Idaho, Canyon County. Hon. Thomas J. Ryan, District Judge.

Appeal from order denying Idaho Criminal Rule 35 motion for reduction of sentence, dismissed.

Sara B. Thomas, State Appellate Public Defender; Elizabeth A. Allred, 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

Justin Lee McGinnis pled guilty to eluding a peace officer, Idaho Code § 49-1404(2). The parties entered into a binding Idaho Criminal Rule 11 plea agreement. Pursuant to the agreement and in exchange for McGinnis' guilty plea, the State dismissed an additional charge. McGinnis waived his right to appeal his sentence and his right to file an Idaho Criminal Rule 35 motion for reduction of his sentence.

The district court imposed a unified five-year sentence, with a minimum period of confinement of one year. McGinnis filed an I.C.R. 35 motion for reduction of sentence, which

the district court denied. McGinnis appeals, contending that the district court abused its discretion in denying his I.C.R. 35 motion.

We hold that McGinnis' appellate challenge to the denial of his I.C.R. 35 motion has been waived by his plea agreement. *See* I.C.R. 11(f)(1); *State v. Cope*, 142 Idaho 492, 495-99, 129 P.3d 1241, 1245-49 (2006); *State v. Rodriguez*, 142 Idaho 786, 787, 133 P.3d 1251, 1252 (Ct. App. 2006). McGinnis' plea agreement contained a clause by which he waived his right to appeal his sentences or file an I.C.R. 35 motion. Accordingly, we dismiss McGinnis' appeal.