

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 43785

STATE OF IDAHO,	)	2016 Unpublished Opinion No. 560
	)	
Plaintiff-Respondent,	)	Filed: June 8, 2016
	)	
v.	)	Stephen W. Kenyon, Clerk
	)	
MICHAEL KENNEDA, aka DAVID	)	THIS IS AN UNPUBLISHED
MICHAEL KENNEDA,	)	OPINION AND SHALL NOT
	)	BE CITED AS AUTHORITY
Defendant-Appellant.	)	
	)	

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Appeal from the District Court of the Third Judicial District, State of Idaho, Canyon County. Hon. Bradly S. Ford, District Judge.

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

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.

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

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PER CURIAM

Michael Kennedy, aka David Michael Kennedy, pled guilty to one count of burglary. I.C. § 18-1401. In exchange for his guilty plea, additional charges were dismissed. The district court withheld judgment and placed Kennedy on probation for three years. Kennedy violated his probation. The district court revoked Kennedy’s probation and sentenced him to a unified term of seven years, with a minimum period of confinement of two years. However, the district court suspended the sentence and placed Kennedy back on probation. Thereafter, Kennedy violated his probation and the district court revoked probation and ordered execution of his sentence. The

district court retained jurisdiction and sent Kenneda to participate in the rider program. Following successful completion of his rider, the district court again suspended the sentence and placed Kenneda on probation. Ultimately, Kenneda admitted to violating his probation. The district court revoked probation and ordered execution of Kenneda's sentence. Kenneda filed an I.C.R 35 motion for reduction of his sentence, which the district court denied. Kenneda 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 Kenneda's Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Kenneda's Rule 35 motion is affirmed.