

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 43837

STATE OF IDAHO,	)	2016 Unpublished Opinion No. 618
	)	
Plaintiff-Respondent,	)	Filed: July 29, 2016
	)	
v.	)	Stephen W. Kenyon, Clerk
	)	
BENJAMIN T. HINES JR.,	)	THIS IS AN UNPUBLISHED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 Seventh Judicial District, State of Idaho, Bonneville County. Hon. Joel E. Tingey, District Judge.

Order denying Idaho Criminal Rule 35 motion, affirmed.

Eric D. Fredericksen, Interim State Appellate Public Defender; Jenny C. Swinford, 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 HUSKEY, Judge

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PER CURIAM

Benjamin T. Hines Jr. entered an *Alford*<sup>1</sup> plea to possession of a controlled substance, methamphetamine, Idaho Code § 37-2732(c)(1). The district court imposed a unified seven-year sentence, with two years determinate, suspended the sentence, and placed Hines on a 365-day period of retained jurisdiction. Prior to completing his retained jurisdiction, Hines filed two separate Idaho Criminal Rule 35 motions. The district court denied both motions. Hines appealed from the denial of his first I.C.R. 35 motion and this Court affirmed the denial.

<sup>1</sup> See *North Carolina v. Alford*, 400 U.S. 25 (1970).

Following his period of retained jurisdiction, the district court relinquished jurisdiction and executed the underlying seven-year sentence, with two years determinate. Hines filed another I.C.R. 35 motion, which the district court denied. Hines appeals.

Idaho Criminal Rule 35 states “no defendant may file more than one motion seeking a reduction of sentence under this Rule.” The prohibition of successive motions under I.C.R. 35 is jurisdictional and Idaho appellate courts have consistently held that I.C.R. 35 precludes a second motion for reduction of sentence. *State v. Bottens*, 137 Idaho 730, 732-33, 52 P.3d 875, 877-78 (Ct. App. 2002); *State v. Atwood*, 122 Idaho 199, 200-01, 832 P.2d 1134, 1135-36 (Ct. App. 1992). Thus, the district court lacked jurisdiction to grant Hines’ requested relief. Therefore, the district court’s order denying Hines’ I.C.R. 35 motion is affirmed.