

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 43912

STATE OF IDAHO,) 2016 Unpublished Opinion No. 650
)
Plaintiff-Respondent,) Filed: August 19, 2016
)
v.) Stephen W. Kenyon, Clerk
)
RAHIM D. REED,) THIS IS AN UNPUBLISHED
) OPINION AND SHALL NOT
Defendant-Appellant.) BE CITED AS AUTHORITY
)
_____)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Deborah A. Bail, District Judge.

Order denying I.C.R. 35 motion, affirmed.

Eric D. Fredericksen, Interim State Appellate Public Defender; Ben P. McGreevy, 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

Rahim D. Reed pled guilty to possession of a controlled substance. Idaho Code § 37-2732(c). The district court sentenced Reed to a unified term of seven years determinate, and retained jurisdiction. Following the period of retained jurisdiction, the district court placed Reed on probation. Reed subsequently violated his probation and the district court retained jurisdiction a second time. Following Reed's second period of retained jurisdiction, the district court again placed him on probation. Reed violated his probation a second time and the district court revoked his probation and ordered his underlying sentence executed. Reed filed an Idaho Criminal Rule 35 motion, which the district court denied. Reed appeals asserting that the district court abused its discretion by denying his Rule 35 motion.

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. Gill*, 150 Idaho 183, 186, 244 P.3d 1269, 1272 (Ct. App. 2010). 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). An appeal from the denial of a Rule 35 motion cannot be used as a vehicle to review the underlying sentence absent the presentation of new information. *Id.* Because no new information in support of Reed's Rule 35 motion was presented, the district court did not abuse its discretion. For the foregoing reasons, the district court's order denying Reed's Rule 35 motion is affirmed.