

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 43997

STATE OF IDAHO,) 2016 Unpublished Opinion No. 754
)
Plaintiff-Respondent,) Filed: October 27, 2016
)
v.) Stephen W. Kenyon, Clerk
)
BILLY J. RHOTON,) THIS IS AN UNPUBLISHED
) OPINION AND SHALL NOT
Defendant-Appellant.) BE CITED AS AUTHORITY
)
_____)

Appeal from the District Court of the Second Judicial District, State of Idaho, Idaho County. Hon. Gregory Fitzmaurice, District Judge.

Order denying Idaho Criminal Rule 35 motion for reduction of sentence, affirmed.

Eric D. Fredericksen, Interim State Appellate Public Defender; Justin M. Curtis, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

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

PER CURIAM

Billy J. Rhoton pled guilty to grand theft by possession of stolen property, Idaho Code §§ 18-2403(4), 18-2407(1)(b)(1). The district court imposed a unified sentence of twelve years, with a minimum period of confinement of five years; suspended the sentence; and placed Rhoton on supervised probation for five years. Subsequently, Rhoton admitted to violating the terms of the probation. The district court consequently revoked probation, ordered execution of the underlying sentence, and retained jurisdiction. After Rhoton completed his rider, the district court relinquished jurisdiction. Rhoton filed an Idaho Criminal Rule 35 motion for reduction of sentence, which the district court denied. Rhoton 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 Rhoton's Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Rhoton's Rule 35 motion is affirmed.