

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 44238

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| STATE OF IDAHO, |) | 2017 Unpublished Opinion No. 433 |
| |) | |
| Plaintiff-Respondent, |) | Filed: April 17, 2017 |
| |) | |
| v. |) | Stephen W. Kenyon, Clerk |
| |) | |
| KODI A. WHEELER, |) | THIS IS AN UNPUBLISHED |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. George A. Southworth, District Judge.

Order denying I.C.R. 35 motion to reconsider order relinquishing jurisdiction, affirmed.

Eric D. Fredericksen, 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 GRATTON, Chief Judge; GUTIERREZ, Judge;
and MELANSON, Judge

PER CURIAM

Kodi A. Wheeler pled guilty to sexual abuse of a child under the age of sixteen. Idaho Code § 18-1506(1)(a). The district court sentenced Wheeler to a unified term of seven years with three years determinate, suspended the sentence, and placed Wheeler on probation. Wheeler subsequently admitted to violating the terms of his probation and the district court revoked his probation but retained jurisdiction. Following the period of retained jurisdiction, the district court relinquished jurisdiction. Wheeler filed a motion to reconsider the order relinquishing jurisdiction, which the district court treated as an Idaho Criminal Rule 35 motion

and denied the motion. Wheeler appeals, asserting that the district court erred by denying his motion to reconsider the order relinquishing jurisdiction.

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 Wheeler's Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Wheeler's Rule 35 motion is affirmed.

The order of the district court denying Wheeler's Rule 35 motion to reconsider order relinquishing jurisdiction is affirmed.