

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 44310

STATE OF IDAHO,) 2017 Unpublished Opinion No. 405
)
Plaintiff-Respondent,) Filed: March 20, 2017
)
v.) Stephen W. Kenyon, Clerk
)
NICHOLAS STONE MEEK,) THIS IS AN UNPUBLISHED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 for reduction of sentence, 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; MELANSON, Judge;
and HUSKEY, Judge

PER CURIAM

Nicholas Stone Meek pled guilty to possession of methamphetamine. Idaho Code § 37-2732(c). The district court sentenced Meek to a unified sentence of seven years with two years determinate and retained jurisdiction. Following the period of retained jurisdiction, the district court suspended Meek's sentence and placed him on supervised probation for a period of seven years. Meek subsequently admitted to violating the terms of his probation and the district court revoked probation, ordered the underlying sentence executed, and retained jurisdiction a second time. Following the second period of retained jurisdiction, the district court, at Meek's request, relinquished jurisdiction. Meek filed an Idaho Criminal Rule 35 motion, which the district court

denied. Meek 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 Meek's Rule 35 motion was presented, the district court did not abuse its discretion. For the foregoing reasons, the district court's order denying Meek's Rule 35 motion is affirmed.