

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 44347

STATE OF IDAHO,) 2017 Unpublished Opinion No. 374
)
Plaintiff-Respondent,) Filed: February 21, 2017
)
v.) Stephen W. Kenyon, Clerk
)
JORGE RUIZ ESPINOZA) THIS IS AN UNPUBLISHED
) OPINION AND SHALL NOT
Defendant-Appellant.) BE CITED AS AUTHORITY
)
_____)

Appeal from the District Court of the Seventh Judicial District, State of Idaho, Bonneville County. Hon. Gregory W. Moeller, District Judge.

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

Eric D. Fredericksen, State Appellate Public Defender; Andrea W. Reynolds, 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; MELANSON, Judge;
and HUSKEY, Judge

PER CURIAM

Jorge Ruiz Espinoza pled guilty to possession of methamphetamine, Idaho Code § 37-2732(c)(1), and felony driving under the influence (DUI), I.C. §§ 18-8004, 18-8005(9). The district court imposed concurrent unified sentences of five years, with two years determinate, for possession and ten years, with four years determinate, for felony DUI and ordered the sentences to run consecutive to a sentence in a separate case. Espinoza filed an Idaho Criminal Rule 35 motion requesting that the district court run the possession and DUI sentences concurrent to the sentence in the prior case. The district court denied the motion and Espinoza 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 Espinoza's Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Espinoza's Rule 35 motion is affirmed.