

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 44356

STATE OF IDAHO, ) 2017 Unpublished Opinion No. 375  
 )  
Plaintiff-Respondent, ) Filed: February 21, 2017  
 )  
v. ) Stephen W. Kenyon, Clerk  
 )  
LANCE ALLEN ROBERTS, ) THIS IS AN UNPUBLISHED  
 ) OPINION AND SHALL NOT  
Defendant-Appellant. ) BE CITED AS AUTHORITY  
 )

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

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

Eric D. Fredericksen, State Appellate Public Defender; Jenny C. Swinford, Deputy Appellate Public Defender, Boise, for appellant.

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

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

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PER CURIAM

Lance Allen Roberts pled guilty to felony driving under the influence. Idaho Code §§ 18-8004(1)(a), 19-2514 . The district court sentenced Roberts to a unified term of twenty years with five years determinate. Roberts filed an Idaho Criminal Rule 35 motion, which the district court denied. Roberts 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 Roberts' Rule 35 motion was presented, the district court did not abuse its discretion. For the foregoing reasons, the district court's order denying Roberts' Rule 35 motion is affirmed.