

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 44368/44369

STATE OF IDAHO,)	2017 Unpublished Opinion No. 361
)	
Plaintiff-Respondent,)	Filed: February 8, 2017
)	
v.)	Stephen W. Kenyon, Clerk
)	
JAMES MICHAEL KERR,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Twin Falls County. Hon. Randy J. Stoker, District Judge.

Orders denying Idaho Criminal Rule 35 motions, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Ben P. McGreevy, 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 HUSKEY, Judge

PER CURIAM

In two separate cases, James Michael Kerr pleaded guilty to one count of possession of a controlled substance, methamphetamine, Idaho Code § 37-2732(c)(1). For each count, the district court imposed a unified six-year sentence, with two years determinate, and ordered the sentences to run concurrently. The district court retained jurisdiction, and Kerr was sent to participate in the retained jurisdiction program. After Kerr completed his period of retained jurisdiction, the district court relinquished jurisdiction. Kerr filed an Idaho Criminal Rule 35 motion in each case, which the district court denied. Kerr appeals, claiming that the district court abused its discretion by denying his I.C.R. 35 motions.

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 an I.C.R. 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 Kerr's I.C.R. 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's orders denying Kerr's I.C.R. 35 motions are affirmed.