

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 44475

STATE OF IDAHO,) 2017 Unpublished Opinion No. 392
)
Plaintiff-Respondent,) Filed: March 8, 2017
)
v.) Stephen W. Kenyon, Clerk
)
BRANDON COLE JARVIS,) THIS IS AN UNPUBLISHED
) OPINION AND SHALL NOT
Defendant-Appellant.) BE CITED AS AUTHORITY
)
_____)

Appeal from the District Court of the First Judicial District, State of Idaho, Kootenai County. Hon. Lansing L. Haynes, District Judge.

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

Eric D. Fredericksen, State Appellate Public Defender; Brian R. Dickson, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

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

PER CURIAM

Brandon Cole Jarvis pled guilty to burglary. Idaho Code § 18-1401. The district court sentenced Jarvis to a unified term of five years with two years determinate and retained jurisdiction. Following the period of retained jurisdiction, the district court suspended the sentence and placed Jarvis on probation. Jarvis later admitted to violating his probation and the district court revoked his probation and again retained jurisdiction. Following the second period of retained jurisdiction, the district court relinquished jurisdiction. Jarvis filed an Idaho Criminal Rule 35 motion, which the district court denied. Jarvis appeals, requesting that the district court reduce his sentence or remand this case for a new Rule 35 determination.

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). Upon review of the record, including any new information submitted with Jarvis's Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Jarvis's Rule 35 motion is affirmed.