

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 44483

STATE OF IDAHO,) 2017 Unpublished Opinion No. 412
)
Plaintiff-Respondent,) Filed: March 21, 2017
)
v.) Stephen W. Kenyon, Clerk
)
RONALD STANLEY FAVINI,) THIS IS AN UNPUBLISHED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. John T. Mitchell, District Judge.

Order denying I.C.R. 35 motion for reduction of sentence, 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 MELANSON, Judge

PER CURIAM

Ronald Stanley Favini was convicted of aggravated battery, Idaho Code §§ 18-903, 18-907, with a persistent violator enhancement. The district court sentenced Favini to a unified term of fifty years with fifteen years determinate and retained jurisdiction. Following the period of retained jurisdiction, the district court relinquished jurisdiction and reduced Favini's sentence to a unified sentence of fifty years with five years determinate. Favini filed an Idaho Criminal Rule 35 motion for a reduction of sentence, which the district court denied. Pursuant to a post-conviction relief matter, the district court re-entered its order denying Favini's Rule 35 motion for a reduction of sentence to allow Favini to timely file an appeal from that order. Favini 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 Favini's Rule 35 motion was presented, the district court did not abuse its discretion. For the foregoing reasons, the district court's order denying Favini's Rule 35 motion is affirmed.