

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 44568

STATE OF IDAHO,)	2017 Unpublished Opinion No. 455
)	
Plaintiff-Respondent,)	Filed: May 2, 2017
)	
v.)	Stephen W. Kenyon, Clerk
)	
JULIAN DANIEL PEREZ,)	THIS IS AN UNPUBLISHED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, Cassia County. Hon. Michael R. Crabtree, District Judge.

Order denying Idaho Criminal Rule 35 motion, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Sally J. Cooley, 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; MELANSON, Judge;
and HUSKEY, Judge

PER CURIAM

Julian Daniel Perez pleaded guilty to possession of a controlled substance, I.C. § 37-2732(c)(1). The district court sentenced Perez to a unified sentence of four years, with one year determinate, but suspended the sentence and placed him on probation. Subsequently, Perez admitted to violating the terms of probation, and the district court consequently revoked probation, imposed the original sentence, and retained jurisdiction. After Perez completed his period of retained jurisdiction, the district court relinquished jurisdiction. Perez filed a timely Idaho Criminal Rule 35 motion, which the district court denied. Perez appeals, contending that the district court abused its discretion by denying his I.C.R. 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. 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). An appeal from the denial of an I.C.R. 35 motion cannot be used as a vehicle to review the underlying sentence absent the presentation of new information. *Id.* Because no new or additional information in support of Perez's I.C.R. 35 motion was presented, the district court did not abuse its discretion. For the foregoing reasons, the district court's order denying Perez's I.C.R. 35 motion is affirmed.