

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 44663

STATE OF IDAHO,)	2017 Unpublished Opinion No. 542
)	
Plaintiff-Respondent,)	Filed: August 3, 2017
)	
v.)	Karel A. Lehrman, Clerk
)	
MICHAEL L. JENSEN,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Second Judicial District, State of Idaho, Idaho County. Hon. Gregory Fitzmaurice, District Judge.

Order denying Idaho Criminal Rule 35 motion for reduction of sentence, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Elizabeth A. Allred, 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

Michael L. Jensen pled guilty to felony driving under the influence, Idaho Code § 18-8004. The district court imposed a unified sentence of four years, with a minimum period of confinement of two years, suspended the sentence, and placed Jensen on supervised probation. Jensen subsequently violated the terms of his probation and the district court revoked probation, executed the underlying sentence, and retained jurisdiction. Following the period of retained jurisdiction, the district court relinquished jurisdiction. Jensen filed an Idaho Criminal Rule 35 motion for reduction of sentence, which the district court denied. Jensen appeals, arguing the district court abused its discretion by denying his Rule 35 motion for reduction of sentence. The

State argues in response that the district court's order denying Jensen's Rule 35 motion should be affirmed alternatively on the basis that Jensen waived his right to appeal his sentence, no new or additional information was presented in support of the Rule 35 motion, and no abuse of discretion has been shown. We need only address the abuse of discretion issue as presented by Jensen.

A motion for reduction of sentence under Rule 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 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 Jensen's Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Jensen's Rule 35 motion is affirmed.