

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 44853

STATE OF IDAHO,) 2017 Unpublished Opinion No. 528
)
 Plaintiff-Respondent,) Filed: July 27, 2017
)
 v.) Karel A. Lehrman, Clerk
)
 MARCELLUS DARRICK SINGER,) THIS IS AN UNPUBLISHED
) OPINION AND SHALL NOT
 Defendant-Appellant.) BE CITED AS AUTHORITY
)
 _____)

Appeal from the District Court of the Third Judicial District, State of Idaho, Canyon County. Hon. Bradly S. Ford, District Judge.

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

Eric D. Fredericksen, State Appellate Public Defender; Elizabeth Ann 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

Marcellus Darrick Singer pled guilty to burglary. Idaho Code § 18-1401. The district court sentenced Singer to a unified term of five years with two years determinate, suspended the sentence and placed Singer on supervised probation for three years. Subsequently, the district court revoked probation, executed the underlying sentence and retained jurisdiction. Following the period of retained jurisdiction, the district court suspended Singer's sentence and placed him on supervised probation for four years. Singer violated his probation a second time and the district court revoked probation and executed the underlying sentence. Singer filed an Idaho Criminal Rule 35 motion for reduction of sentence, which the district court denied. Singer 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 Singer's Rule 35 motion was presented, the district court did not abuse its discretion. For the foregoing reasons, the district court's order denying Singer's Rule 35 motion is affirmed.