

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 45178

STATE OF IDAHO,) 2018 Unpublished Opinion No. 319
)
Plaintiff-Respondent,) Filed: January 10, 2018
)
v.) Karel A. Lehrman, Clerk
)
GARRETT C. SKIDMORE,) THIS IS AN UNPUBLISHED
) OPINION AND SHALL NOT
Defendant-Appellant.) BE CITED AS AUTHORITY
)
_____)

Appeal from the District Court of the Seventh Judicial District, State of Idaho, Bonneville County. Hon. Joel E. Tingey, 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 LORELLO, Judge

PER CURIAM

Garrett C. Skidmore pled guilty to burglary. Idaho Code § 18-1401. The district court withheld judgment and placed him on probation for three years. After violating his probation, the district court revoked the withheld judgment, imposed a unified sentence of four years with one year determinate, and placed Skidmore on probation. After several probation violations, the district court revoked probation and executed the underlying sentence. Skidmore filed an Idaho Criminal Rule 35 motion, which the district court denied. Mindful that the Rule 35 motion was not timely filed and no new information was provided in support of the motion, Skidmore appeals asserting that the district court abused its discretion by denying his Rule 35 motion.

As an initial matter, the filing of an untimely motion deprives the court of jurisdiction to consider or grant the motion. In addition, 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 Skidmore's Rule 35 motion was presented, the district court did not abuse its discretion. For the foregoing reasons, the district court's order denying Skidmore's Rule 35 motion is affirmed.