

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 45292

STATE OF IDAHO,) 2018 Unpublished Opinion No. 384
)
Plaintiff-Respondent,) Filed: March 7, 2018
)
v.) Karel A. Lehrman, Clerk
)
JESSE RYAN ROGSTAD,) THIS IS AN UNPUBLISHED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. Scott L. Wayman, 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; HUSKEY, Judge;
and LORELLO, Judge

PER CURIAM

Jesse Ryan Rogstad was convicted of malicious injury to or destruction of a jail, Idaho Code § 18-7018, with a persistent violator sentencing enhancement, I.C. § 19-2514. The district court sentenced Rogstad to a unified term of ten years with three years determinate, suspended the sentence, and placed Rogstad on probation for a period of three years. Rogstad subsequently admitted to violating the terms of the probation. At the probation violation hearing, Rogstad, in an oral Idaho Criminal Rule 35 motion, requested that the district court reduce this sentence. The district court denied Rogstad's oral Rule 35 motion, revoked Rogstad's probation, and executed the underlying sentence. Rogstad 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. 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 Rogstad's Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Rogstad's Rule 35 motion is affirmed.