

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 45294

STATE OF IDAHO,) 2018 Unpublished Opinion No. 327
)
Plaintiff-Respondent,) Filed: January 18, 2018
)
v.) Karel A. Lehrman, Clerk
)
DWIGHT GLENN PETERS,) THIS IS AN UNPUBLISHED
) OPINION AND SHALL NOT
Defendant-Appellant.) BE CITED AS AUTHORITY
)
_____)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Steven Hippler, District Judge.

Judgment of conviction and unified sentence of fifteen years, with a minimum period of confinement of four years, for aggravated driving under the influence, affirmed; 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; GUTIERREZ, Judge;
and HUSKEY, Judge

PER CURIAM

Dwight Glenn Peters pled guilty to aggravated driving under the influence of alcohol. Idaho Code § 18-8006. Following his plea, Peters was sentenced to a unified term of fifteen years with four years determinate, and retained jurisdiction.

Following the period of retained jurisdiction, the district court relinquished jurisdiction. Peters filed an Idaho Criminal Rule 35 motion for reduction of sentence, which the district court denied. Peters appeals, asserting that the district court erred by relinquishing jurisdiction and by denying his Rule 35 motion

We note that the decision to place a defendant on probation or whether, instead, to relinquish jurisdiction over the defendant is a matter within the sound discretion of the district court and will not be overturned on appeal absent an abuse of that discretion. *State v. Hood*, 102 Idaho 711, 712, 639 P.2d 9, 10 (1981); *State v. Lee*, 117 Idaho 203, 205-06, 786 P.2d 594, 596-97 (Ct. App. 1990). The record in this case shows that the district court properly considered the information before it and determined that probation was not appropriate. We hold that Peters has failed to show that the district court abused its discretion in relinquishing jurisdiction.

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). Upon review of the record, including any new information submitted with Peters' Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, Peters' judgment of conviction and sentence, and the district court's order denying Peters' I.C.R. 35 motion, are affirmed.