

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 45445

STATE OF IDAHO,) 2018 Unpublished Opinion No. 441
)
Plaintiff-Respondent,) Filed: May 4, 2018
)
v.) Karel A. Lehrman, Clerk
)
VESTAL CAUDILL,) THIS IS AN UNPUBLISHED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 Idaho Criminal Rule 35 motion, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Sally J. Cooley, 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

Vestal Caudill pleaded guilty to possession of a controlled substance, methamphetamine, Idaho Code § 37-2732(c)(1). The district court imposed a unified six-year sentence, with one year determinate. Caudill filed an Idaho Criminal Rule 35 motion, which the district court denied. Caudill appeals.

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 an I.C.R. 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). Caudill supports his I.C.R. 35 motion by arguing that his initial stop was unlawful. This is not new or additional information that can be used for sentencing mitigation purposes. Nor can an appeal from the denial of an I.C.R. 35 motion be used as a vehicle to review the underlying sentence absent the presentation of new information. *Id.* Because no new or additional information that can be considered at sentencing in support of Caudill's I.C.R. 35 motion was presented, the district court did not abuse its discretion. Further, Caudill received the sentence agreed upon pursuant to his plea agreement with the State. For the foregoing reasons, the district court's order denying Caudill's I.C.R. 35 motion is affirmed.