

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 45900

STATE OF IDAHO,)
) Filed: December 21, 2018
Plaintiff-Respondent,)
) Karel A. Lehrman, Clerk
v.)
) THIS IS AN UNPUBLISHED
KENNETH ALLEN GREENWOOD,) OPINION AND SHALL NOT
) BE CITED AS AUTHORITY
Defendant-Appellant.)
_____)

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Minidoka County. Hon. Jonathan Brody, District Judge.

Order denying Idaho Criminal Rule 35 motion for reduction of sentence, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Elizabeth A. Allred, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

Before GUTIERREZ, Judge; HUSKEY, Judge;
and LORELLO, Judge

PER CURIAM

Kenneth Allen Greenwood pled guilty to grand theft by possession of stolen property, Idaho Code §§ 18-2403, 18-2407(1)(b)(1). The district court imposed a unified sentence of five years, with a minimum period of confinement of two years, suspended the sentence and placed Greenwood on probation. Greenwood subsequently violated his probation, and the district court revoked probation and retained jurisdiction. Greenwood filed an Idaho Criminal Rule 35 motion for reduction of sentence, which the district court denied. Greenwood 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 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 or additional information in support of Greenwood's Rule 35 motion was presented, the district court did not abuse its discretion. For the foregoing reasons, the district court's order denying Greenwood's Rule 35 motion is affirmed.