

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 46069

STATE OF IDAHO,	)
	) <b>Filed: May 13, 2019</b>
<b>Plaintiff-Respondent,</b>	)
	) <b>Karel A. Lehrman, Clerk</b>
v.	)
	) <b>THIS IS AN UNPUBLISHED</b>
<b>JORDAN A. GANTT,</b>	) <b>OPINION AND SHALL NOT</b>
	) <b>BE CITED AS AUTHORITY</b>
<b>Defendant-Appellant.</b>	)
_____	)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Elmore County. Hon. Jonathan Medema, District Judge.

Order denying I.C.R. 35 motion for reduction of sentence, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Maya P. Waldron, Deputy Appellate Public Defender, Boise, for appellant.

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

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Before GRATTON, Chief Judge; HUSKEY, Judge;  
and BRAILSFORD, Judge

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PER CURIAM

Jordan A. Gantt pled guilty to unlawful discharge of a firearm into an occupied building, Idaho Code § 18-3317; destruction, alteration, concealment of evidence, I.C. § 18-2603; and obstructing and/or delaying an officer, I.C. § 18-705. The district court sentenced Gantt to concurrent sentences of ten years with three years determinate for unlawful discharge of a firearm; two years determinate for destruction of evidence; and one year jail time for obstructing and delaying an officer; the district court retained jurisdiction. Following the period of retained jurisdiction, the district court suspended the balance of Gantt’s sentences and placed him on probation for a period of ten years.

Subsequently, the State alleged that Gantt had violated his probation. Gantt admitted to violating the terms of probation and the district court revoked probation and executed his underlying sentences. Gantt filed an Idaho Criminal Rule 35 motion, which the district court denied. Gantt appeals asserting that the district court abused its discretion by denying his Rule 35 motion for reduction of sentence.

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). Gantt takes issue with the district court describing some of the information submitted with the Rule 35 motion as not “new,” because the court was aware of the information at the then recent disposition hearing. The district court was aware of the information at the disposition hearing and, again, upon review of the information following the filing of the Rule 35 motion, such that the court was able to describe it as not new. Nonetheless, the district court, being aware of all of the information, concluded that the sentence imposed was reasonable. Under the applicable standards no abuse of discretion has been shown.

Therefore, the district court’s order denying Gantt’s Rule 35 motion is affirmed.