

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 46291

STATE OF IDAHO,)
) Filed: February 22, 2019
Plaintiff-Respondent,)
) Karel A. Lehrman, Clerk
v.)
) THIS IS AN UNPUBLISHED
JUAN LUIS MALAGON-VENEGAS,) OPINION AND SHALL NOT
) BE CITED AS AUTHORITY
Defendant-Appellant.)
_____)

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 for reduction of sentence, 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; LORELLO, Judge;
and BRAILSFORD, Judge

PER CURIAM

Juan Louis Malagon-Venegas pled guilty to felony domestic battery, Idaho Code § 18-918(2)(a), and malicious injury to property, I.C. § 18-7001. The district court imposed a unified sentence of eight years with two years determinate for felony domestic battery and a sixty-day jail term for malicious injury to property and retained jurisdiction. The district court relinquished jurisdiction in March 2018. More than two months later, Malagon-Venegas filed an Idaho Criminal Rule 35 motion for reduction of sentence, specifically requesting that he be placed back on retained jurisdiction. The district court denied the motion, and Malagon-Venegas appeals, contending the district court abused its discretion in denying his Rule 35 motion.

Idaho Criminal Rule 35 narrowly operates to permit the correction, modification, or reduction of criminal sentences in certain instances. *State v. Flores*, 162 Idaho 298, 301, 396 P.3d 1180, 1183 (2017). A motion for reduction of sentence under Rule 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).

A request for jurisdiction to be reinstated does not constitute a correction, modification or reduction of a criminal sentence. *Flores*, 162 Idaho at 301-02, 396 P.3d at 1183-84. Rule 35 is, thus, inapplicable. *Id.* Therefore, the district court's order denying Malagon-Venegas's Rule 35 motion is affirmed.