

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 46301

STATE OF IDAHO,)
) Filed: May 29, 2019
Plaintiff-Respondent,)
) Karel A. Lehrman, Clerk
v.)
) THIS IS AN UNPUBLISHED
DANIEL TODD BURNINGHAM,) OPINION AND SHALL NOT
) BE CITED AS AUTHORITY
Defendant-Appellant.)
_____)

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

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

Eric D. Fredericksen, State Appellate Public Defender; Jenny C. Swinford, 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; HUSKEY, Judge;
and LORELLO, Judge

PER CURIAM

Daniel Todd Burningham was found guilty of aggravated assault, I.C. §§ 18-901(b) and 18-905, enhanced for use of a firearm or deadly weapon during the commission of a crime, I.C. § 19-2520. The district court sentenced Burningham to a unified term of ten years, with a minimum period of confinement of three years. Burningham filed an I.C.R. 35 motion for reduction of sentence, which the district court denied. Burningham appeals, arguing that the district court erred in denying his Rule 35 motion.

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). Upon review of the record, including any new information submitted with Burningham's Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Burningham's Rule 35 motion is affirmed.