

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 46452/46453

STATE OF IDAHO,)
)
) **Filed: July 10, 2019**
)
) **Plaintiff-Respondent,**)
) **Karel A. Lehrman, Clerk**
)
) **v.**)
) **THIS IS AN UNPUBLISHED**
) **SHAUN PATRICK KELLY,**) **OPINION AND SHALL NOT**
) **BE CITED AS AUTHORITY**
) **Defendant-Appellant.**)
)
)

Appeal from the District Court of the First Judicial District, State of Idaho, Kootenai County. Hon. Cynthia Meyer, District Judge.

Orders denying Idaho Criminal Rule 35 motions for reduction of sentences, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Ben P. McGreevy, 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

These cases were consolidated on appeal. In Docket No. 46452, Shaun Patrick Kelly pled guilty to delivery of methamphetamine with an enhancement for infliction of great bodily injury (Idaho Code §§ 37-2732(a)(1)(A), 19-2520B) and to unlawful possession of a firearm (I.C. § 18-3316(1)). In Docket No. 46453, Kelly pled guilty to eluding a peace officer (I.C. § 49-1404(2)). At a consolidated sentencing hearing, the district court imposed consecutive sentences of life with twenty-five years determinate for delivery of methamphetamine with infliction of great bodily injury; five years determinate for unlawful possession of a firearm; and five years determinate for felony eluding a peace officer. Kelly filed Idaho Criminal Rule 35

motions for reduction of his sentences in each case, which the district court denied. Kelly appeals.

The State argues the district court lost jurisdiction to rule on Kelly's Rule 35 motions. We conclude the district court had jurisdiction to deny Kelly's motions. *See State v. Nickerson*, 123 Idaho 971, 974, 855 P.2d 56, 59 (Ct. App. 1993).

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 Kelly's Rule 35 motions, we conclude no abuse of discretion has been shown. Therefore, the district court's orders denying Kelly's Rule 35 motions are affirmed.