

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 46598

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) **THIS IS AN UNPUBLISHED**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

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Twin Falls County. Hon. Benjamin J. Cluff, District Judge.

Appeal from order denying I.C.R. 35 motion for reduction of sentence, dismissed.

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 HUSKEY, Judge; LORELLO, Judge;
and BRAILSFORD, Judge

PER CURIAM

Michael Allen Curtis pled guilty to possession of a controlled substance. I.C. § 37-2732(c)(1). The parties entered into a I.C.R. 11 plea agreement in which a misdemeanor charge was dismissed and the State agreed not to file a persistent violator enhancement. The parties stipulated to a unified sentence of seven years, with a minimum period of confinement of three years. Curtis agreed to waive the right to file a “Rule 35 motion regarding the initial Judgment (except as to an illegal sentence)” and to “appeal *any* issues in this case, including all matters involving the plea or the sentence and any rulings made by the court.” The district court sentenced Curtis to a unified term of seven years, with a minimum period of confinement of

three years. Thereafter, Curtis filed a Rule 35 motion seeking a reduction of his sentence, which the district court denied. Curtis appeals, noting he is mindful of his appeal waiver but nonetheless asserting the district court erred in denying his motion for a sentence reduction.

We hold that Curtis's appellate challenge regarding his sentence has been waived by his plea agreement. *See* I.C.R. 11(f)(1); *State v. Rodriguez*, 142 Idaho 786, 787, 133 P.3d 1251, 1252 (Ct. App. 2006). Curtis's plea agreement contained a clause by which Curtis waived his right to file a Rule 35 motion and his right to appeal. Accordingly, we dismiss Curtis's appeal.