

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 46664

STATE OF IDAHO,)
) Filed: October 25, 2019
Plaintiff-Respondent,)
) Karel A. Lehrman, Clerk
v.)
) THIS IS AN UNPUBLISHED
JESUS MANUEL ZUNIGA,) OPINION AND SHALL NOT
) BE CITED AS AUTHORITY
Defendant-Appellant.)
_____)

Appeal from the District Court of the Third Judicial District, State of Idaho, Canyon County. Hon. Gene A. Petty, District Judge.

Order denying Idaho Criminal Rule 35 motion, 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 HUSKEY Judge; LORELLO, Judge;
and BRAILSFORD, Judge

PER CURIAM

Jesus Manuel Zuniga was found guilty of aggravated battery, Idaho Code §§ 18-903(a) and 18-907(a). The district court imposed a unified fifteen-year sentence, with ten years determinate.

Zuniga filed an Idaho Criminal Rule 35 motion for correction of an illegal sentence, asserting that his sentence is illegal because the district court violated his constitutional rights when it sentenced him without a neuropsychological examination and MRI. Specifically, Zuniga claims “the district court violated his Eighth Amendment right to equal protection by failing to order these evaluations and that his Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendment rights to due process were violated by the court, the prosecutor, and defense counsel.” The

district court denied Zuniga's motion, finding that Zuniga's sentence is not illegal. Zuniga appeals.

In *State v. Clements*, 148 Idaho 82, 87, 218 P.3d 1143, 1148 (2009), the Idaho Supreme Court held that the term "illegal sentence" under Rule 35 is narrowly interpreted as a sentence that is illegal from the face of the record, i.e., does not involve significant questions of fact or require an evidentiary hearing. Rule 35 is a "narrow rule," and because an illegal sentence may be corrected at any time, the authority conferred by Rule 35 should be limited to uphold the finality of judgments. *State v. Farwell*, 144 Idaho 732, 735, 170 P.3d 397, 400 (2007). Idaho Criminal Rule 35 is not a vehicle designed to reexamine the facts underlying the case to determine whether a sentence is illegal; rather, the rule only applies to a narrow category of cases in which the sentence imposes a penalty that is simply not authorized by law or where new evidence tends to show that the original sentence was excessive. *Clements*, 148 Idaho at 87, 218 P.3d at 1148.

The record supports the district court's finding that Zuniga's sentence is not illegal. Therefore, the district court properly denied Zuniga's motion. Accordingly, we conclude no abuse of discretion has been shown and the district court's order denying Zuniga's I.C.R. 35 motion is affirmed.