

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 46667/46668

STATE OF IDAHO,)
) Filed: August 7, 2019
Plaintiff-Respondent,)
) Karel A. Lehrman, Clerk
v.)
) THIS IS AN UNPUBLISHED
ROXANN KAY CALHOON,) 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. Nancy Baskin, District Judge.

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

Eric D. Fredericksen, State Appellate Public Defender; Kimberly A. Coster, 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 BRAILSFORD, Judge

PER CURIAM

In cases consolidated on appeal, Roxann Kay Calhoon pled guilty to possession of methamphetamine (Idaho Code § 37-2732(c)) in Docket No. 46667 and felony injury to a child (I.C. § 18-1501(1)) and possession of methamphetamine (I.C. § 37-2732(c)) in Docket No. 46668. The district court imposed a unified five-year sentence with a one-year determinate term for possession of methamphetamine in Docket No. 46667. In Docket No. 46668, the district court imposed a unified seven-year sentence with a two-year determinate term for possession of methamphetamine and a unified seven-year sentence with a three-year determinate term for felony injury to a child. All sentences were ordered to run concurrently. After a period

of retained jurisdiction, Calhoon's sentences were suspended and she was placed on probation for five years. Calhoon subsequently violated the terms of her probation by incurring charges in a separate case. The district court revoked probation in both cases, ordered execution of Calhoon's underlying sentences, and ordered the sentences to run concurrently with the sentence in the separate case. Calhoon filed Idaho Criminal Rule 35 motions for reduction of sentence in both cases, which the district court denied. Calhoon appeals.

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