

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 46682/46683

STATE OF IDAHO,	)
	) <b>Filed: September 3, 2019</b>
<b>Plaintiff-Respondent,</b>	)
	) <b>Karel A. Lehrman, Clerk</b>
v.	)
	) <b>THIS IS AN UNPUBLISHED</b>
ABEL DANIEL HIDALGO-	) <b>OPINION AND SHALL NOT</b>
VIALPANDO,	) <b>BE CITED AS AUTHORITY</b>
	)
<b>Defendant-Appellant.</b>	)
_____	)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Jason D. Scott, District Judge.

Orders denying Idaho Criminal Rule 35 motion, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Elizabeth A. Allred, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

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

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PER CURIAM

Abel Daniel Hidalgo-Vialpando pleaded guilty to burglary, Idaho Code § 18-1401. In a separate case, Hidalgo-Vialpando pleaded guilty to grand theft by receiving, obtaining control over, or possession of stolen property, I.C. §§ 18-2403(4), -2407(1), -2409. The district court imposed concurrent, unified sentences of ten years, with five years determinate, for each charge. Hidalgo-Vialpando filed an Idaho Criminal Rule 35 motion in each case, which the district court denied. Hidalgo-Vialpando appeals.

A motion for reduction of sentence under I.C.R. 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 an I.C.R. 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). An appeal from the denial of an I.C.R. 35 motion cannot be used as a vehicle to review the underlying sentence absent the presentation of new information. *Id.* Because no new or additional information in support of Hidalgo-Vialpando's I.C.R. 35 motions was presented, the district court did not abuse its discretion. For the foregoing reasons, the district court's orders denying Hidalgo-Vialpando's I.C.R. 35 motions are affirmed.