

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 46745

|                                   |                                  |
|-----------------------------------|----------------------------------|
| STATE OF IDAHO,                   | )                                |
|                                   | ) <b>Filed: June 21, 2019</b>    |
| <b>Plaintiff-Respondent,</b>      | )                                |
|                                   | ) <b>Karel A. Lehrman, Clerk</b> |
| v.                                | )                                |
|                                   | ) <b>THIS IS AN UNPUBLISHED</b>  |
| <b>RACHELL SUE FLAPPINGEAGLE,</b> | ) <b>OPINION AND SHALL NOT</b>   |
|                                   | ) <b>BE CITED AS AUTHORITY</b>   |
| <b>Defendant-Appellant.</b>       | )                                |
| _____                             | )                                |

Appeal from the District Court of the Third Judicial District, State of Idaho, Canyon County. Hon. Christopher S. Nye, District Judge.

Order denying I.C.R. 35 motion 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.

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Before GRATTON, Chief Judge; LORELLO, Judge;  
and BRAILSFORD, Judge

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PER CURIAM

Rachell Sue Flappingeagle pled guilty to felony driving under the influence. Idaho Code §§ 18-8004, 18-8005. The district court sentenced Flappingeagle to a unified term of eight years with two years determinate. Flappingeagle filed an Idaho Criminal Rule 35 motion, which the district court denied. Flappingeagle appeals asserting that the district court abused its discretion by denying her Rule 35 motion for a reduction of sentence.

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 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). An appeal from the denial of a Rule 35 motion cannot be used as a vehicle to review the underlying sentence absent the presentation of new information. *Id.* Because no new information in support of Flappingeagle's Rule 35 motion was presented, the district court did not abuse its discretion. For the foregoing reasons, the district court's order denying Flappingeagle's Rule 35 motion is affirmed.