

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 46786

STATE OF IDAHO, )  
 ) **Filed: August 15, 2019**  
 ) **Plaintiff-Respondent,** )  
 ) **Karel A. Lehrman, Clerk**  
v. )  
 ) **THIS IS AN UNPUBLISHED**  
 ) **CARL ROBERT BETANCOURT,** ) **OPINION AND SHALL NOT**  
 ) **BE CITED AS AUTHORITY**  
 ) **Defendant-Appellant.** )  
 )  
\_\_\_\_\_ )

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Jerome County. Hon. John K. Butler, District Judge.

Order denying Idaho Criminal Rule 35 motions to correct an illegal sentence, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Jenevieve C. Swinford, 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  
\_\_\_\_\_

PER CURIAM

In July 2013, Carl Robert Betancourt pled guilty to one count of grand theft, Idaho Code § 18-2407(1)(b). The district court imposed a unified sentence of fourteen years with two and one-half years determinate.

Several years later, on February 4, 2019, Betancourt filed numerous pro se motions challenging his sentence, including a motion under Idaho Criminal Rule 35(a) to correct an illegal sentence. On appeal, Betancourt collectively refers to his motions as “sentencing motions.” The district court denied Betancourt’s sentencing motions, concluding it “lost jurisdiction of this case once the time for appeal expired.”

Betancourt argues the district court erred by ruling it lacked subject matter jurisdiction to address his motions. In response, the State concedes the district court had jurisdiction to rule on Betancourt's Rule 35(a) motion but argues none of the issues Betancourt raises in his sentencing motions are the proper subjects of a Rule 35(a) motion. We agree with the State. While Betancourt filed numerous different motions, he acknowledges on appeal that the basis for the district court's jurisdiction to resolve these motions is its authority under Rule 35(a). Under Rule 35, the district court may correct an illegal sentence "at any time." Whether the sentence imposed is illegal is a question of law this Court freely reviews on appeal. *See State v. Josephson*, 124 Idaho 286, 287, 858 P.2d 825, 826 (Ct. App. 1993).

In *State v. Clements*, 148 Idaho 82, 86, 218 P.3d 1143, 1147 (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). 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 is excessive. *Clements*, 148 Idaho at 86, 218 P.3d at 1147.

The record supports the conclusion that Betancourt's sentence is not illegal. Therefore, the district court properly denied Betancourt's motions. Accordingly, the district court's order denying Betancourt's sentencing motions is affirmed.