

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 46888

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) THIS IS AN UNPUBLISHED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

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Cassia County. Hon. Michael P. Tribe, District Judge.

Appeal from Idaho Criminal Rule 35 motion, dismissed.

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.

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

PER CURIAM

Jose Rios Mario Alvarado pleaded guilty to unlawful possession of a firearm, Idaho Code § 18-3316. The parties entered into a binding Idaho Criminal Rule 11 plea agreement. Pursuant to the agreement and in exchange for Alvarado’s guilty plea, the State dismissed additional charges. Alvarado’s plea agreement contained the following clause:

By accepting this offer the Defendant waives his right to all appeals, including appeals of his conviction, his sentence, and any rulings made by the District Court in his case, and to any appeals under Rule 11 or 12 of the Idaho Appellate Rules or Rule 35 of the Idaho Criminal Rules, and agrees to reserve only his post-conviction remedies.

The district court imposed a unified five-year sentence, with two years determinate, and retained jurisdiction. Subsequently, the district court relinquished jurisdiction. Alvarado filed an Idaho Criminal Rule 35 motion which the district court denied. Alvarado appeals, contending the district court abused its discretion by denying his Idaho Criminal Rule 35 motion.

We hold that Alvarado's appellate challenge has been waived by his plea agreement. *See* I.C.R. 11(f)(1); *State v. Cope*, 142 Idaho 492, 495-99, 129 P.3d 1241, 1245-49 (2006); *State v. Rodriguez*, 142 Idaho 786, 787, 133 P.3d 1251, 1252 (Ct. App. 2006). Accordingly, we dismiss Alvarado's appeal.