

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 46939

STATE OF IDAHO, )  
 )  
 ) **Filed: January 9, 2020**  
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 ) **Karel A. Lehrman, Clerk**  
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 ) **THIS IS AN UNPUBLISHED**  
 ) **OPINION AND SHALL NOT**  
 ) **BE CITED AS AUTHORITY**  
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Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Lynn G. Norton, District Judge.

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

Eric D. Fredericksen, State Appellate Public Defender; Andrea W. Reynolds, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

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

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PER CURIAM

Joe Anthony Santiago pled guilty to possession of a controlled substance. I.C. § 37-2732(c)(1)(F). The district court sentenced Santiago to a unified term of seven years, with a minimum period of confinement of two years; suspended the sentence; and placed Santiago on probation. Santiago appealed and argued his sentence is excessive. This Court affirmed Santiago's judgment of conviction and sentence.

Santiago violated the terms of his probation, and the district court revoked probation and executed the underlying sentence. Santiago filed an Idaho Criminal Rule 35 motion claiming his sentence is illegal. The district court denied Santiago's motion finding that the sentence is not

illegal under I.C.R. 35(a) and that the motion was untimely under I.C.R. 35(b). Santiago appeals, challenging only the finding that his sentence is not illegal.

In *State v. Clements*, 148 Idaho 82, 87, 218 P.3d 1143, 1148 (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). Idaho Criminal 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 was excessive. *Clements*, 148 Idaho at 87, 218 P.3d at 1148.

The record supports the district court’s finding that Santiago’s sentence is not illegal. Therefore, the district court properly denied Santiago’s motion. Accordingly, we conclude no abuse of discretion has been shown and the district court’s order denying Santiago’s I.C.R. 35 motion is affirmed.