

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 46951/46952/46953/46954

STATE OF IDAHO,)
)
) **Filed: November 27, 2019**
)
) **Plaintiff-Respondent,**)
) **Karel A. Lehrman, Clerk**
)
) **v.**)
) **THIS IS AN UNPUBLISHED**
) **ROBBERT WAYNE LAVERDURE,**) **OPINION AND SHALL NOT**
) **BE CITED AS AUTHORITY**
) **Defendant-Appellant.**)
)
)

Appeal from the District Court of the First Judicial District, State of Idaho, Kootenai County. Hon. John T. Mitchell, District Judge.

Order denying Idaho Criminal Rule 35 motion for reduction of sentences, 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.

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

PER CURIAM

In these consolidated cases, Robbert Wayne Laverdure pled guilty to attempted strangulation, Idaho Code § 18-923 (Docket No. 46951), and three counts of felony intimidating a witness, I.C. § 18-2604 (Docket Nos. 46952 and 46953). The district court imposed a unified sentence of fifteen years with five years determinate for attempted strangulation and consecutive five-year determinate terms for each count of intimidating a witness. Following a period of retained jurisdiction, the district court suspended Laverdure's sentences and placed him on probation. A report of probation violation was filed and the district court revoked probation, executed the underlying sentences, and retained jurisdiction a second time. Upon completion of

retained jurisdiction, Laverdure's sentences were suspended and he was again placed on probation.

Subsequently, Laverdure admitted to violating his probation by committing forgery, I.C. § 18-3601 (Docket No. 46954). The district court revoked probation and executed the underlying sentences, imposed a consecutive unified sentence of ten years with four years determinate for forgery, and retained jurisdiction in all four cases. Following the third period of retained jurisdiction, the district court again suspended Laverdure's sentences and placed him on probation. Laverdure violated the terms of his probation, and the district court revoked probation and ordered execution of the underlying sentences. Laverdure filed an Idaho Criminal Rule 35 motion for reduction of his sentences in each case, which the district court denied. Laverdure appeals.

A motion for reduction of sentence under Rule 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 or additional information in support of Laverdure's Rule 35 motion was presented, the district court did not abuse its discretion. For the foregoing reasons, the district court's order denying Laverdure's Rule 35 motion is affirmed.