

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 46985

STATE OF IDAHO,)
) Filed: February 6, 2020
Plaintiff-Respondent,)
) Karel A. Lehrman, Clerk
v.)
) THIS IS AN UNPUBLISHED
NAZAR KHALED ALSANEA,) OPINION AND SHALL NOT
) BE CITED AS AUTHORITY
Defendant-Appellant.)
_____)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Deborah A. Bail, District Judge.

Order denying I.C.R. 35(a) motion to correct an illegal sentence and related motions, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Jenny C. Swinford, Deputy Appellate Public Defender, Boise, for appellant.

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

Before GRATTON, Judge and BRAILSFORD, Judge

PER CURIAM

Nazar Khaled Alsanea was found guilty of two counts of aggravated assault on a law enforcement officer, use of a firearm during the commission of a crime, violation of a no-contact order and unlawful entry. The district court imposed consecutive sentences of ten years determinate for the first count of aggravated assault on a law enforcement officer; twenty five years with ten years determinate for the second count of aggravated assault on a law enforcement officer, with a deadly weapon enhancement; one year indeterminate for violation of a no-contact order; and six months indeterminate for unlawful entry.

Alsanea filed an Idaho Criminal Rule 35 motion “for correction of illegal sentencing by means of violations of sentencing procedure and PSI consideration” and multiple related

motions, including a motion for a confidential neuropsychological examination at public expense; a motion to redact the PSI and “alternative” motion to disqualify the district judge; a motion “for forma pauperis”; a motion for appointment of conflict counsel; a motion for a telephonic hearing; a motion for a status hearing; a motion for an evidentiary hearing; and a motion to transport for any proceedings “if necessary.” The district court denied Alsanea’s motions, finding that Alsanea’s sentence is not illegal and that it was “without jurisdiction” to act on Alsanea’s request that the court “resentence him based on psychological studies.” Alsanea appeals asserting that the district court abused its discretion by denying his motions.

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 district court’s finding that Alsanea’s sentence is not illegal. Therefore, the district court properly denied Alsanea’s motions. Accordingly, we conclude no abuse of discretion has been shown and the district court’s order denying Alsanea’s Rule 35 motion and multiple related motions is affirmed.