

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 47036

STATE OF IDAHO,)
) **Filed: April 13, 2020**
) **Plaintiff-Respondent,**)
) **Karel A. Lehrman, Clerk**
v.)
) **THIS IS AN UNPUBLISHED**
DONALD ALLEN YOUNG,) **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. Samuel Hoagland, District Judge.

Order denying Idaho Criminal Rule 35 motion, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Reed P. Anderson, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Mark W. Olson, Deputy Attorney General, Boise, for respondent.

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

PER CURIAM

In 1981, the district court sentenced Donald Allen Young to a determinate life sentence for first degree murder and a consecutive fifteen-year determinate sentence for the sentencing enhancement. Young appealed and this Court affirmed his conviction. *State v. Young*, 106 Idaho 142, 676 P.2d 53 (Ct. App. 1984). On appeal, this Court also affirmed the district court's denial of Young's post-conviction petition. *Young v. State*, 115 Idaho 52, 764 P.2d 129 (Ct. App. 1988).

In 2018, more than 35 years after Young's conviction, he filed an Idaho Criminal Rule 35(a) motion to correct an illegal sentence arguing that his determinate life sentence for first degree murder was illegal because his trial counsel failed to inform him that he did not have to

speak with the presentence investigator and his trial counsel failed to present adequate mitigating evidence at the sentencing hearing. The district court denied Young's Rule 35(a) motion and concluded that Young's sentence was authorized by statute and that Young's ineffective assistance of trial counsel claims were beyond the limited scope of I.C.R. 35(a). Young filed a motion for the district court to reconsider its denial of his Rule 35 motion. Young asserted that at the time he was sentenced, the maximum sentence for first degree murder was thirty years. The district court denied the motion finding Young's sentence was not illegal. Young appealed.

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 Young's sentence was not illegal. Therefore, the district court properly denied Young's motion. Accordingly, we conclude no abuse of discretion has been shown, and the district court's order denying Young's I.C.R. 35 motion is affirmed.