

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 47076

STATE OF IDAHO, )  
 ) **Filed: November 13, 2019**  
 ) **Plaintiff-Respondent,** )  
 ) **Karel A. Lehrman, Clerk**  
v. )  
 ) **THIS IS AN UNPUBLISHED**  
RAMO RUZNIC, ) **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. Jonathan Medema, District Judge.

Order denying Idaho Criminal Rule 35(b) motion for reduction of sentence, 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 HUSKEY, Judge; LORELLO, Judge;  
and BRAILSFORD, Judge  
\_\_\_\_\_

PER CURIAM

Ramo Ruznic pled guilty to felony driving under the influence of alcohol, Idaho Code §§ 18-8004, 18-8005(6). The district court imposed a unified sentence of ten years with a two-year determinate term, suspended the sentence, and placed Ruznic on probation. Subsequently, Ruznic admitted to violating the terms of his probation by committing new crimes. At the probation violation disposition hearing, Ruznic’s counsel stipulated to the State’s request to revoke Ruznic’s probation and to impose his sentence but made an oral motion, pursuant to Idaho Criminal Rule 35(b), to reduce his sentence. On December 4, 2018, the district court revoked probation, ordered execution of Ruznic’s sentence, and denied Ruznic’s

Rule 35(b) motion. Later, on February 4, 2019, Ruznic filed a successive Rule 35(b) motion requesting retained jurisdiction or reinstatement on probation. The district court denied the motion, concluding it lacked the authority either to retain jurisdiction or to suspend Ruznic's sentence and place him on probation.

The court may reduce a sentence under Rule 35(b) "on motion made within 14 days after the filing of the order revoking probation." I.C.R. 35(b). A defendant, however, "may only file *one* motion under Rule 35(b) seeking a reduction of sentence." *Id.* (emphasis added). A motion for reduction of sentence under Rule 35(b) 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(b) motion cannot be used as a vehicle to review the underlying sentence absent the presentation of new information. *Id.* at 203, 159 P.3d at 840.

Under these authorities, Ruznic's successive Rule 35(b) motion fails for at least two reasons including that Ruznic failed to file his Rule 35(b) motion within fourteen days of the district court's order revoking probation and that Ruznic had already previously made a Rule 35(b) when the district court revoked his probation.

Therefore, the district court's order denying Ruznic's Rule 35(b) motion is affirmed.