

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 47128

STATE OF IDAHO, )  
 ) **Filed: February 19, 2020**  
 ) **Plaintiff-Respondent,** )  
 ) **Karel A. Lehrman, Clerk**  
v. )  
 ) **THIS IS AN UNPUBLISHED**  
 ) **DIMITRY S. GONCHARUK,** ) **OPINION AND SHALL NOT**  
 ) **BE CITED AS AUTHORITY**  
 ) **Defendant-Appellant.** )  
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Appeal from the District Court of the Third Judicial District, State of Idaho, Canyon County. Hon. George A. Southworth, District Judge.

Order denying I.C.R. 35 motion for reduction of sentence, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Brian R. Dickson, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Jeff Nye, 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

Dimitry S. Goncharuk pled guilty to felony driving under the influence. I.C. §§ 18-8004 and 18-8005. In exchange for his guilty plea, an additional charge that he is a persistent violator was dismissed. The district court sentenced Goncharuk to a unified term of ten years, with a minimum period of confinement of two and one-half years. Goncharuk filed an I.C.R. 35 motion, which the district court denied. Goncharuk appeals, arguing that the district court erred in denying his Rule 35 motion.

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). Upon review of the record, including any new information submitted with Goncharuk's Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Goncharuk's Rule 35 motion is affirmed.