

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 47259

STATE OF IDAHO,)
)
) **Filed: March 12, 2020**
)
) **Plaintiff-Respondent,**)
) **Karel A. Lehrman, Clerk**
)
) **v.**)
) **THIS IS AN UNPUBLISHED**
) **CHRISTOPHER D. GRIFFITH,**) **OPINION AND SHALL NOT**
) **BE CITED AS AUTHORITY**
) **Defendant-Appellant.**)
)
)

Appeal from the District Court of the Seventh Judicial District, State of Idaho, Bonneville County. Hon. Joel E. Tingey, District Judge.

Order denying I.C.R. 35(a) motion to correct an illegal sentence, affirmed; order denying motion for appointment of counsel, affirmed.

Christopher D. Griffith, Boise, pro se appellant.

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

GRATTON, Judge and BRAILSFORD, Judge

PER CURIAM

Christopher D. Griffith was found guilty of first degree murder, Idaho Code §§ 18-4001, 18-4003(d). The district court imposed a unified life sentence with twenty-two years determinate.

Griffith filed an Idaho Criminal Rule 35(a) motion for correction of an illegal sentence, asserting that his sentence is illegal because his trial counsel was ineffective with respect to advice counsel allegedly gave Griffith in regard to his plea agreement. Griffith also filed a motion to appoint counsel to represent him. The district court denied Griffith's I.C.R. 35(a) motion, concluding that Griffith's argument went beyond the narrow scope of a proper I.C.R. 35(a) motion to correct an illegal sentence. Due to the fact the district court found no

merit in Griffith's I.C.R. 35(a) motion, the court also denied the motion for appointment of counsel. Griffith appeals asserting that the district court erred by denying both the I.C.R. 35(a) motion and the motion for appointment of counsel.

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 Griffith's sentence is not illegal. Therefore, the district court properly denied Griffith's I.C.R. 35(a) motion and the motion for appointment of counsel. Accordingly, we conclude no abuse of discretion has been shown and the district court's order denying Griffith's Rule 35 motion and motion for appointment of counsel are affirmed.