

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 47277 & 47278

STATE OF IDAHO,)
) **Filed: April 7, 2020**
) **Plaintiff-Respondent,**)
) **Karel A. Lehrman, Clerk**
 v.)
) **THIS IS AN UNPUBLISHED**
) **DANA PAUL RUTHERFORD,**) **OPINION AND SHALL NOT**
) **BE CITED AS AUTHORITY**
) **Defendant-Appellant.**)
)
)

Appeal from the District Court of the Sixth Judicial District, State of Idaho, Bannock County. Hon. Stephen D. Dunn, District Judge.

Orders denying I.C.R. 35 motions for reduction of sentences, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Justin M. Curtis, Deputy Appellate Public Defender, Boise, for appellant.

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

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

PER CURIAM

In these consolidated appeals, Dana Paul Rutherford pled guilty to two counts of possession of a controlled substance. I.C. § 37-2732(c). In exchange for his guilty pleas, sentencing enhancements were dismissed in both cases. The district court sentenced Rutherford to a unified term of five years, with a minimum period of confinement of two years, for the first count and a unified term of six years, with a minimum period of confinement of three years for the second count. However, the district court retained jurisdiction and sent Rutherford to participate in the retained jurisdiction program. Thereafter, the district court relinquished jurisdiction and ordered execution of Rutherford's original sentences. Rutherford filed I.C.R. 35 motions, which the

district court denied. Rutherford appeals, arguing that the district court erred in denying his Rule 35 motions.

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 Rutherford's Rule 35 motions, we conclude no abuse of discretion has been shown. Therefore, the district court's orders denying Rutherford's Rule 35 motions are affirmed.