

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 47348

STATE OF IDAHO,	)
	) <b>Filed: May 5, 2020</b>
<b>Plaintiff-Respondent,</b>	)
	) <b>Karel A. Lehrman, Clerk</b>
v.	)
	) <b>THIS IS AN UNPUBLISHED</b>
ANDREA SUE DYAS,	) <b>OPINION AND SHALL NOT</b>
	) <b>BE CITED AS AUTHORITY</b>
<b>Defendant-Appellant.</b>	)
_____	)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Patrick Miller, District Judge.

Order denying Idaho Criminal Rule 35 motion, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Ben P. McGreevy, Deputy Appellate Public Defender, Boise, for appellant.

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

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

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PER CURIAM

Pursuant to a plea agreement, Andrea Sue Dyas pleaded guilty to felony possession of controlled substance, methamphetamine, Idaho Code § 37-2732(c), and the State dismissed a misdemeanor charge of possession of controlled substance, marijuana, I.C. § 37-2732(c). The district court imposed a seven-year sentence, with a minimum period of confinement of two years. The district court retained jurisdiction, and Dyas was sent to participate in the rider program. After Dyas completed her rider, the district court suspended Dyas’s sentence, and placed her on probation for seven years. Dyas subsequently violated the terms of her probation and the district court revoked probation and executed a reduced sentence of seven years, with a minimum period of confinement of one and one-half years. Dyas filed an Idaho Criminal Rule

35 motion, which the district court denied. Approximately six years later, Dyas filed another Rule 35 motion claiming her sentence was illegal because she entered a guilty plea to “use-under the influence . . . which exceeds the max as pursuant to I 37-2732C [sic] use or under the influence.” The district court determined that Dyas:

pled guilty and the court found her guilty of Possession of a Controlled Substance in violation of Idaho Code Section 37-2732(c). The Court sentenced her to the custody of the State Idaho Board of Correction for an aggregate term of seven (7) years, with the first two (2) years fixed and the remaining five (5) indeterminate. The seven (7) year aggregate sentence was allowed by Idaho Code Section 37-2732(c).

The district court denied Dyas’s Rule 35 motion finding that her sentence was not illegal. Dyas appeals.

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 Dyas’s sentence was not illegal. Therefore, the district court properly denied Dyas’s motion. Accordingly, we conclude no abuse of discretion has been shown and the district court’s order denying Dyas’s Rule 35 motion is affirmed.