

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 47385

STATE OF IDAHO, )  
 ) **Filed: March 19, 2020**  
 ) **Plaintiff-Respondent,** )  
 ) **Karel A. Lehrman, Clerk**  
v. )  
 ) **THIS IS AN UNPUBLISHED**  
 ) **OPINION AND SHALL NOT**  
 ) **BE CITED AS AUTHORITY**  
 ) **DEVIN BLANE PRUTCH,** )  
 ) **Defendant-Appellant.** )  
 )

---

Appeal from the District Court of the Third Judicial District, State of Idaho, Canyon County. Hon. Andrea L. Courtney, District Judge.

Appeal from denial of I.C.R. 35 motion for reduction of sentence, dismissed.

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, Chief Judge; GRATTON, Judge;  
and BRAILSFORD, Judge

---

PER CURIAM

Devin Blane Prutch entered an *Alford*<sup>1</sup> plea to attempted strangulation, Idaho Code § 18-923. The parties entered into a binding Idaho Criminal Rule 11 plea agreement. Pursuant to the agreement and in exchange for Prutch's guilty plea, the State dismissed additional charges. Prutch waived his right to appeal his sentence and his right to move for reconsideration of his sentence.

The district court imposed a unified sentence of five years with two and one-half years determinate and retained jurisdiction. Following the period of retained jurisdiction, the district

---

<sup>1</sup> See *North Carolina v. Alford*, 400 U.S. 25 (1970).

court suspended Prutch's sentence and placed him on probation. Subsequently, Prutch admitted to violating the terms of the probation. At the probation violation disposition hearing, Prutch's counsel moved for reduction of Prutch's sentence pursuant to Idaho Criminal Rule 35. The district court revoked probation, ordered execution of the original sentence, and denied the oral Rule 35 motion for reduction of Prutch's sentence. Prutch appeals, contending that the district court abused its discretion in denying his Rule 35 motion.

We hold that Prutch's appellate challenge to the denial of his Rule 35 motion has been waived by his plea agreement. *See* I.C.R. 11; *State v. Cope*, 142 Idaho 492, 495-99, 129 P.3d 1241, 1245-49 (2006); *State v. Rodriguez*, 142 Idaho 786, 787, 133 P.3d 1251, 1252 (Ct. App. 2006). Prutch's plea agreement contained a clause by which Prutch waived his right to appeal his sentence and the right to move the court to reconsider his sentence. Accordingly, we dismiss Prutch's appeal.