

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 47454

STATE OF IDAHO,)
) Filed: April 6, 2020
Plaintiff-Respondent,)
) Karel A. Lehrman, Clerk
v.)
) THIS IS AN UNPUBLISHED
RAMO RUZNIC,) OPINION AND SHALL NOT
) BE CITED AS AUTHORITY
Defendant-Appellant.)
_____)

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

Order denying I.C.R. 35(a) motion to correct and illegal sentence, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Jenny C. Swinford, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; John C. McKinney, Deputy Attorney General, Boise, for respondent.

Before GRATTON, Judge; LORELLO, Judge;
and BRAILSFORD, Judge

PER CURIAM

Ramo Ruznic pled guilty to felony driving under the influence, Idaho Code § 18-8004. The district court imposed a unified term of ten years with two years determinate, suspended the sentence and placed Ruznic on supervised probation for ten years. Ruznic later violated his probation and at the probation violation disposition hearing Ruznic’s counsel stipulated to the revocation of probation, but made an oral Idaho Criminal Rule 35 motion for a reduction of sentence. The district court revoked Ruznic’s probation, executed his underlying sentence, and denied his Rule 35 motion. In its order revoking probation, the district court incorrectly stated that Ruznic was committed to the custody of the Idaho Department of Correction for an

aggregate term of ten years with two years determinate and the remaining three years indeterminate.

Ruznic filed an Idaho Criminal Rule 35 motion for correction of an illegal sentence, asserting that his sentence is illegal because of the district court's reference to three years indeterminate in its order revoking probation. The district court denied Ruznic's motion, finding that Ruznic's sentence is not illegal. Ruznic appeals asserting that the district court erred by denying his Rule 35(a) motion for correction of an illegal sentence due to the district court's incorrect reference to "three years indeterminate" in its order revoking probation.

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 Ruznic's sentence is not illegal. The clerical error did not affect the court's imposition of sentence and does not make the original sentence illegal. Therefore, the district court properly denied Ruznic's motion. Accordingly, we conclude no abuse of discretion has been shown and the district court's order denying Ruznic's Rule 35 motion is affirmed.