

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 47499/47500/47501/47502

STATE OF IDAHO,)
)
) **Filed: November 30, 2020**
)
) **Plaintiff-Respondent,**)
) **Melanie Gagnepain, Clerk**
)
) **v.**)
) **THIS IS AN UNPUBLISHED**
) **IGNACIO NATHAN PRINCE,**) **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.

Orders denying Idaho Criminal Rule 35 motions, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Andrea W. Reynolds, Deputy Appellate Public Defender, Boise, for appellant.

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

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

PER CURIAM

This case involves four consolidated cases. In Docket No. 47499, Ignacio Nathan Prince pled guilty to grand theft by possession of stolen property, Idaho Code § 18-1403(4), and the district court imposed a unified five-year sentence, with one year determinate, suspended the sentence, and placed Prince on probation. Prince admitted to violating his probation when he received new criminal charges, and the district court revoked Prince’s probation, ordered into execution his previously suspended sentence, and retained jurisdiction. At the same hearing, in Docket No. 47500, Prince pled guilty to forgery, I.C. § 18-3601, and the district court imposed a unified six-year sentence, with two years determinate, to be served concurrently with his sentences imposed in his other three cases, and retained jurisdiction. In Docket No. 47501, Prince pled guilty

to grand theft, I.C. § 18-2403, and the district court imposed a unified eight-year sentence, with three years determinate, to be served concurrently with his sentences imposed in his other three cases, and retained jurisdiction. In Docket No. 47502, Prince pled guilty to grand theft, I.C. § 18-2403, and the district court imposed a unified eight-year sentence, with three years determinate, to be served concurrently with the sentences imposed in his other three cases, and retained jurisdiction. Subsequently, the district court relinquished jurisdiction in all four cases and ordered into execution Prince's four previously suspended sentences.

Prince timely filed an Idaho Criminal Rule 35 motion in each case. In the motions, Prince asked the district court to grant him another opportunity at a rider program. Following a hearing, the district court issued an order denying the motions. Mindful of *State v. Flores*, 162 Idaho 298, 396 P.3d 1180 (2017), Prince timely appeals arguing the district court should have granted him a second opportunity at a period of retained jurisdiction. Prince's argument fails for two reasons.

First, a motion for reduction of sentence under I.C.R. 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). Idaho Criminal Rule 35 is not a valid mechanism to challenge the district court's relinquishment order. A motion pursuant to I.C.R. 35 does not create a general basis for requesting reconsideration of an order or a judgment in the criminal context; instead, I.C.R. 35 narrowly operates to permit the correction, modification, or reduction of criminal sentences in certain instances. *Flores*, 162 Idaho at 301-02, 396 P.3d at 1183-84. Because Prince's request for jurisdiction to be reinstated does not constitute a correction, modification, or reduction of a criminal sentence, I.C.R. 35 is inapplicable.

Second, the statute governing retained jurisdiction does not authorize reinstatement after it has been relinquished unless a defendant has been placed on probation in the intervening period. I.C. § 19-2601. In the instant cases, Prince had not been placed on probation following the relinquishment of jurisdiction and so the district court lacked the statutory authority to grant Prince's motions.

The district court did not abuse its discretion in denying Prince's I.C.R. 35 motions. Therefore, the district court's orders denying Prince's I.C.R. 35 motions are affirmed.