

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 47570

STATE OF IDAHO,)
) **Filed: April 30, 2020**
) **Plaintiff-Respondent,**)
) **Karel A. Lehrman, Clerk**
v.)
) **THIS IS AN UNPUBLISHED**
DONOVAN EDWIN MARKHAM,) **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. Samuel A. Hoagland, District Judge.

Order denying I.C.R. 35 motion for reduction of sentence, 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.

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

PER CURIAM

Donovan Edwin Markham pled guilty to felony operating a motor vehicle while under the influence of alcohol and/or drugs, Idaho Code §§ 18-8005; 18-8005(9). The district court imposed a unified sentence of ten years with two years determinate. Markham filed an Idaho Criminal Rule 35 motion for reduction of sentence, which the district court denied. Markham appeals.

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). An appeal from the denial of a Rule 35 motion cannot be used as a vehicle to review the underlying sentence absent the presentation of new information. *Id.* Because no new or additional information in support of Markham's Rule 35 motion was presented, the district court did not abuse its discretion. For the foregoing reasons, the district court's order denying Markham's Rule 35 motion is affirmed.