

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 47786

STATE OF IDAHO,)	
)	Filed: January 21, 2021
Plaintiff-Respondent,)	
)	Melanie Gagnepain, Clerk
v.)	
)	THIS IS AN UNPUBLISHED
NOLAN BRIAN MULLEN-HUBER,)	OPINION AND SHALL NOT
)	BE CITED AS AUTHORITY
Defendant-Appellant.)	
)	

Appeal from the District Court of the First Judicial District, State of Idaho, Kootenai County. Hon. Richard S. Christensen, District Judge.

Denial of Idaho Criminal Rule 35 motion, affirmed.

Nevin, Benjamin, McKay & Bartlett, LLP; Dennis A. Benjamin, 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 LORELLO, Judge

PER CURIAM

Nolan Brian Mullen-Huber was charged with battery with the intent to commit a serious felony (robbery), Idaho Code §§ 18-903, -911, conspiracy to commit robbery, I.C. §§ 18-6501, -1701, and robbery, I.C. § 18-6501. Pursuant to a plea agreement, Mullen-Huber pleaded guilty to conspiracy to commit robbery and robbery. The battery charge was dismissed. For conspiracy to commit robbery and robbery, the district court sentenced Mullen-Huber to concurrent, unified terms of fifteen years, with five years determinate. Mullen-Huber filed an Idaho Criminal Rule 35 (Rule 35) motion, asking that the determinate portion of his sentence be

reduced or that the court retain jurisdiction. The district court denied the motion. Mullen-Huber timely appeals.

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). In presenting an I.C.R. 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). In conducting our review of the grant or denial of an I.C.R. 35 motion, we consider the entire record and apply the same criteria used for determining the reasonableness of the original sentence. *State v. Forde*, 113 Idaho 21, 22, 740 P.2d 63, 64 (Ct. App. 1987).

Applying these standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion when it denied Mullen-Huber's Rule 35 motion. The record in this case shows that the district court properly considered the information before it and determined that either reducing the determinate portion of the sentence or retaining jurisdiction was not appropriate.

Therefore, the district court's order denying Mullen-Huber's Rule 35 motion is affirmed.