

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 47973/47974

STATE OF IDAHO,)
)
 Plaintiff-Respondent,)
)
 v.)
)
 HERIBERTO QUINTERO,)
)
 Defendant-Appellant.)
)
)

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Cassia County. Hon. Michael P. Tribe, District Judge.

Orders denying I.C.R. 35 motions for reduction of sentences, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Elizabeth Ann Allred, 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 LORELLO, Judge

PER CURIAM

In Docket No. 47973, Heriberto Quintero pled guilty to possession of methamphetamine. Idaho Code § 37-2732(c)(1). The district court sentenced Quintero to a unified term of four years with two years determinate, suspended the sentence, and granted probation. A few months later, in Docket No. 47974, Quintero pled guilty to possession of methamphetamine and admitted to violating probation in Docket No. 47973. The district court revoked probation in Docket No. 47973, imposed a concurrent sentence of seven years with three years determinate in Docket No. 47974, suspended both sentences, and placed Quintero on probation.

Quintero again admitted to violating probation. The district court revoked probation and executed the sentences, and retained jurisdiction. Following the period of retained jurisdiction,

the district court again suspended the sentences and placed Quintero on probation. Subsequently, Quintero admitted to again violating his probation. The district court revoked probation and ordered execution of the sentence in both cases.

Quintero filed untimely Idaho Criminal Rule 35 motions in both cases, requesting a reduction in the sentences. The district court denied both motions. Quintero appeals, recognizing that his I.C.R. 35 motions were untimely and were not supported by any new information, but asserts the district court abused its discretion by denying his Rule 35 motions for a reduction of sentence.

A district court may reduce a sentence on motion made within fourteen days of an order revoking probation. I.C.R. 35(b). The filing limitations are jurisdictional and, unless filed within the period prescribed, a district court lacks jurisdiction to grant relief. *State v. Thomas*, 161 Idaho 898, 899, 392 P.3d 1239, 1240 (Ct. App. 2017). Quintero's motions were filed more than fourteen days after entry of the orders revoking his probation and, therefore, the district court lacked jurisdiction to grant relief.

In addition, 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 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 information in support of Quintero's Rule 35 motion was presented, and the motions were not timely filed, the district court did not abuse its discretion. For the foregoing reasons, the district court's orders denying Quintero's Rule 35 motions are affirmed.