

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 48054

STATE OF IDAHO,)
)
 Plaintiff-Respondent,)
)
 v.)
)
 WARREN KEITH JENNINGS,)
)
 Defendant-Appellant.)
)
)

Appeal from the District Court of the Third Judicial District, State of Idaho, Canyon County. Hon. Gene A. Petty, District Judge.

Order denying I.C.R. 35 motion, 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

Warren Keith Jennings pled guilty to domestic battery and intimidating a witness. Idaho Code §§ 18-903, 18-918(2), 18-2604(3). The district court sentenced Jennings to concurrent sentences of four years with two years determinate and the district court retained jurisdiction. The district court later relinquished jurisdiction. Jennings filed an Idaho Criminal Rule 35 motion for reduction of sentence, which the district court denied. Jennings appeals asserting that the district court abused its discretion by denying his Rule 35 motion.¹

¹ Jennings is “mindful” in asserting that the district court abused its discretion in denying his Rule 35 motion that, as part of his plea agreement, he waived his right to file a Rule 35 motion. While such waivers may be enforceable, the State did not object to the motion on that

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). Upon review of the record, including any new information submitted with Jennings's Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Jennings's Rule 35 motion is affirmed.

basis and the district court decided the motion on the merits. Therefore, we will review the district court's decision on the merits.