

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 48169

STATE OF IDAHO,)
) Filed: January 19, 2021
Plaintiff-Respondent,)
) Melanie Gagnepain, Clerk
v.)
) THIS IS AN UNPUBLISHED
KORDELL ANTON MALLAK,) 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. Cynthia K.C. Meyer, District Judge.

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

Eric D. Fredericksen, State Appellate Public Defender; Elizabeth Ann Allred, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Justin R. Porter, Deputy Attorney General, Boise, for respondent.

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

PER CURIAM

Kordell Anton Mallak pled guilty to trafficking in heroin. Idaho Code § 37-2732B(a)(6). The district court sentenced Mallak to a unified term of ten years with five years determinate. Mallak filed an Idaho Criminal Rule 35 motion for reduction or modification of sentence, which the district court denied. Mallak appeals asserting that the district court abused its discretion by denying his Rule 35 motion.

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 Mallak's Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Mallak's Rule 35 motion is affirmed.