

SUMMARY STATEMENT

State v. Brown, Docket No. 48305

This appeal centered on the one motion limit under Idaho Criminal Rule 35(b) for motions by a defendant to reduce sentence. In the district court, on two occasions, Brown made oral requests for reduction of his sentence prior to the district court relinquishing jurisdiction and imposing his sentence. After his sentence was imposed, Brown made one written motion to reduce his sentence. The district court denied the motion and Brown appealed that denial to the Idaho Supreme Court. In response to Brown's appeal, the State argued that the district court did not have subject matter jurisdiction to entertain Brown's written Rule 35(b) motion because his previous oral motions to reduce sentence counted as his "one" allowed motion under the interpretation of Rule 35(b) in *State v. Hurst*, 151 Idaho 430, 258 P.3d 950 (Ct. App. 2011).

Before reaching the merits of Brown's Rule 35(b) appeal, the Court addressed three prior decisions concerning Rule 35(b). The Court disavowed its decision in *State v. Wersland*, 125 Idaho 499, 873 P.2d 144 (1994) and abrogated the holding in *State v. Bottens*, 137 Idaho 730, 52 P.3d 875 (Ct. App. 2002) to the extent each treated the one motion limit in Rule 35(b) as jurisdictional in effect. The Court held that violating the one motion limit in Rule 35(b) does not deprive a sentencing court of its subject matter jurisdiction. The Court clarified that the one motion limit is a non-flexible procedural rule, and that this clarification applies only prospectively.

Next, the Court abrogated *State v. Hurst*, 151 Idaho 430, 258 P.3d 950 (Ct. App. 2011), where the Court of Appeals incorrectly interpreted the one motion limit in Rule 35(b) as applying to *both* written and oral motions for a reduction of sentence. The Court held that the one motion limit applies only to written motions—not oral—filed after the sentencing court has entered judgment, revoked probation, or relinquished jurisdiction. The Court explained that each of these dispositions has a procedural window of authority under Rule 35(b) for a defendant to file his or her one motion to reduce sentence and for the district court to hear the motion. Because of this, the Court held Brown's *oral* requests for reduction of sentence did not trigger the one motion limit in Rule 35(b).

Finally, the Court held that Brown's sentence for felony grand theft of a firearm was not excessive under any reasonable view of the facts. The district court reasonably considered the additional information Brown presented with his motion to reduce sentence under Rule 35(b). Thus, the Court concluded that the district court did not abuse its discretion and the Court affirmed the district court's denial of Brown's Rule 35(b) motion.

This summary constitutes no part of the opinion of the Court, but has been prepared by court staff for the convenience of the public.