

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 48352

STATE OF IDAHO, )  
 )  
 ) **Filed: May 24, 2021**  
 )  
 ) **Plaintiff-Respondent,** )  
 ) **Melanie Gagnepain, Clerk**  
 )  
 ) **v.** )  
 ) **THIS IS AN UNPUBLISHED**  
 ) **ROCKY LEE HEWLETT,** ) **OPINION AND SHALL NOT**  
 ) **BE CITED AS AUTHORITY**  
 ) **Defendant-Appellant.** )  
 )  
 )

---

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Patrick J. Miller, District Judge.

Order denying I.C.R. 35 motion, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Kimberly A. Coster, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

---

Before GRATTON, Judge; LORELLO, Judge;  
and BRAILSFORD, Judge

---

PER CURIAM

Rocky Lee Hewlett pled guilty to aggravated battery. Idaho Code §§ 18-903(1)(a), 18-907(a), and 18-907(b). The district court sentenced Hewlett to a unified term of ten years with three years determinate. Hewlett filed an Idaho Criminal Rule 35 motion, which the district court denied. Hewlett appeals asserting that the district court abused its discretion by denying his I.C.R. 35 motion in light of his pre-existing medical condition and the heightened risk of contracting COVID-19 while incarcerated.

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