

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 48373

STATE OF IDAHO,)
) **Filed: June 21, 2021**
 Plaintiff-Respondent,)
) **Melanie Gagnepain, Clerk**
 v.)
) **THIS IS AN UNPUBLISHED**
 PETER MARTINEZ,) **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 for reduction of sentence, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Kiley A. Heffner, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Kale D. Gans, Deputy Attorney General, Boise, for respondent.

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

PER CURIAM

Peter Martinez pled guilty to aggravated battery. I.C. §§ 18-903(a) and 18-907(a). The district court sentenced Martinez to a unified term of ten years, with a minimum period of confinement of four years.¹ The district court retained jurisdiction and later placed Martinez on probation. Martinez violated his probation, served another period of retained jurisdiction, and was placed back on probation. Ultimately, Martinez admitted to again violating the terms of his

¹ Martinez also pled guilty to and was sentenced for misdemeanor violation of a no-contact order.

probation. The district court revoked Martinez's probation and ordered execution of his original sentence. Martinez then sought a reduction of his sentence pursuant to I.C.R. 35, which the district court denied. Martinez appeals, arguing that the district court erred in denying his Rule 35 motion.

A motion for reduction of sentence under Rule 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 Martinez's Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Martinez's Rule 35 motion is affirmed.