

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 48374

STATE OF IDAHO, )  
 ) **Filed: June 9, 2021**  
 Plaintiff-Respondent, )  
 ) **Melanie Gagnepain, Clerk**  
 v. )  
 ) **THIS IS AN UNPUBLISHED**  
 JUSTIN ROY BOOTH, ) **OPINION AND SHALL NOT**  
 ) **BE CITED AS AUTHORITY**  
 Defendant-Appellant. )  
 )  
 )

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Appeal from the District Court of the First Judicial District, State of Idaho, Kootenai County. Hon. Scott Wayman, District Judge.

Order denying Idaho Criminal Rule 35 motion for reduction of sentence, affirmed.

Nevin, Benjamin & McKay LLP; Dennis Benjamin, Boise, for appellant.

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

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

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PER CURIAM

Justin Roy Booth pled guilty to murder in the first degree, Idaho Code § 18-4001, and robbery, I.C. § 18-6501. The district court entered the judgment of conviction on July 31, 2018, and imposed concurrent, life sentences with thirty years determinate. On November 28, Booth filed a motion under Idaho Criminal Rule 35 for a reduction of the sentences. The court, however, took no action on the motion until approximately twenty-one months later. At that time, the court held a hearing on the motion on August 31, 2020, and entered a written order the following day denying the motion. Booth appeals the denial.

On appeal, Booth argues the district court abused its discretion by not reducing his sentence to fifteen years determinate because he had not had any disciplinary actions or other problems during incarceration; he lacked treatment opportunities; he hoped to be placed in rehabilitative programming; and he expressed sincere remorse for the surviving victims of his offenses. In response, the State argues that the court unreasonably delayed in ruling on Booth's motion; the record does not substantiate the reason for the delay; and as a result, the court was without jurisdiction to rule on Booth's motion.

We agree the district court lacked jurisdiction to entertain Booth's motion. Rule 35's 120-day filing requirement is jurisdictional. *State v. Parvin*, 137 Idaho 783, 785, 53 P.3d 834, 836 (Ct. App. 2002). The court's jurisdiction over a Rule 35 motion remains intact only for a reasonable period of time beyond the deadline. *Id.* at 785-86, 53 P.3d at 836-37. When the court's decision is unreasonably delayed and it fails to establish the reasons for its delay, the court's jurisdiction expires. In this case, the court unreasonably delayed ruling on Booth's Rule 35 motion, and nothing in the record substantiates the reason for the court's lengthy delay. Therefore, we affirm the district court's order denying Booth's Rule 35 motion, albeit on the grounds that the court lacked jurisdiction to rule on the motion.