

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 48433/48434

STATE OF IDAHO,)
)
 Plaintiff-Respondent,)
)
 v.)
)
 JARED ROBERT KUGLER,)
)
 Defendant-Appellant.)
)
)

Appeal from the District Court of the Sixth Judicial District, State of Idaho, Bannock County. Hon. Javier L. Gabiola, District Judge.

Orders denying I.C.R. 35 motions for reduction of sentences, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Emily M. Joyce, Deputy Appellate Public Defender, Boise, for appellant.

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

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

PER CURIAM

In Docket No. 48433, Jared Robert Kugler pled guilty to possession of a controlled substance. Idaho Code § 37-2732(c)(1). The district court sentenced Kugler to a unified term of six years with three years determinate and retained jurisdiction. Following the period of retained jurisdiction, the district court suspended Kugler’s sentence and placed him on probation for four years.

In Docket No. 48434, Kugler pled guilty to possession of a controlled substance. The district court revoked Kugler’s probation on the first conviction (Docket No. 48433) and sentenced him on the second conviction (Docket No. 48434) to a unified term of six years with

three years determinate to run concurrently with the sentence for the first conviction. Kugler filed Idaho Criminal Rule 35 motions in both cases, which the district court denied.

Thereafter, Kugler filed a Rule 33(d) motion seeking a commutation of his sentence and a motion to appeal Rule 35 denial. The district court denied both motions. On appeal, Kugler acknowledges that the district court did not have jurisdiction to grant commutation under Rule 33(d). Kugler also acknowledges that the Rule 33(d) motion and the motion to appeal the Rule 35 denial are more properly viewed as successive Rule 35 motions which the district court likewise did not have jurisdiction to consider. *State v. Bottens*, 137 Idaho 730, 732, 52 P.3d 875, 877 (Ct. App. 2002).

Therefore, the district court's orders denying Kugler's "Rule 35 motions" are affirmed.