

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 48780

STATE OF IDAHO,)
)
 Plaintiff-Respondent,) **Filed: January 7, 2022**
)
 v.) **Melanie Gagnepain, Clerk**
)
) **THIS IS AN UNPUBLISHED**
 ROBERT SHAWN BECK,) **OPINION AND SHALL NOT**
) **BE CITED AS AUTHORITY**
)
 Defendant-Appellant.)
)
 _____)

Appeal from the District Court of the First Judicial District, State of Idaho, Kootenai County. Hon. John T. Mitchell, District Judge.

Order relinquishing jurisdiction and order denying Idaho Criminal Rule 35 motion, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Jacob L. Westerfield, Deputy Appellate Public Defender, Boise, for appellant.

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

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

PER CURIAM

Robert Shawn Beck pled guilty to felony operating a motor vehicle while under the influence of alcohol, Idaho Code § 18-8004. The district court imposed a unified sentence of ten years, with a minimum period of incarceration of six years, and retained jurisdiction. Beck completed the retained jurisdiction program and the district court placed Beck on probation for ten years. A few years later, Beck admitted to violating a term of his probation, and the district court revoked probation, executed the original sentence, and again retained jurisdiction. Beck filed an untimely Idaho Criminal Rule 35 motion which the district court denied. Ultimately, the district court relinquished jurisdiction. Beck filed another I.C.R. 35 motion, which the district court

denied. Beck timely appealed and asserts the district court abused its discretion by relinquishing jurisdiction and denying his I.C.R. 35 motion.

We note that the decision to place a defendant on probation or whether, instead, to relinquish jurisdiction over the defendant is a matter within the sound discretion of the district court and will not be overturned on appeal absent an abuse of that discretion. *State v. Hood*, 102 Idaho 711, 712, 639 P.2d 9, 10 (1981); *State v. Lee*, 117 Idaho 203, 205-06, 786 P.2d 594, 596-97 (Ct. App. 1990). The record in this case shows that the district court properly considered the information before it and determined that probation was not appropriate. We hold that Beck has failed to show that the district court abused its discretion in relinquishing jurisdiction.

Next, we review whether the district court erred in denying Beck's I.C.R. 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 an I.C.R. 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 Beck's I.C.R. 35 motion, we conclude no abuse of discretion has been shown.

Therefore, Beck's judgment of conviction and sentence, and the district court's order denying Beck's I.C.R. 35 motion, are affirmed.