

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 49130

STATE OF IDAHO,)
)
 Plaintiff-Respondent,) Filed: April 1, 2022
)
 v.) Melanie Gagnepain, Clerk
)
) THIS IS AN UNPUBLISHED
 AMANDA DIAZ,) OPINION AND SHALL NOT
) BE CITED AS AUTHORITY
 Defendant-Appellant.)
)
)

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Twin Falls County. Hon. Eric J. Wildman, District Judge.

Order denying I.C.R. 35 motion for reconsideration of sentence, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Elizabeth Ann Allred, 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; HUSKEY, Judge;
and BRAILSFORD, Judge

PER CURIAM

Amanda Diaz entered an *Alford*¹ plea to possession of a controlled substance charge. Idaho Code § 37-2732(c)(1). The district court sentenced Diaz to a unified term of five years with three years determinate and the district court retained jurisdiction. After completing the period of retained jurisdiction, Diaz was placed on probation for three years. Subsequently, Diaz admitted to violating her probation and the district court revoked her probation and again retained jurisdiction. Diaz failed to report to the county jail and the district court consequently

¹ See *North Carolina v. Alford*, 400 U.S. 25 (1970).

relinquished jurisdiction. Diaz filed an Idaho Criminal Rule 35 motion for reconsideration of sentence, which the district court denied. Diaz appeals asserting that the district court abused its discretion by denying her I.C.R. 35 motion.

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). An appeal from the denial of a Rule 35 motion cannot be used as a vehicle to review the underlying sentence absent the presentation of new information. *Id.* Because no new information in support of Diaz's Rule 35 motion was presented, the district court did not abuse its discretion. For the foregoing reasons, the district court's order denying Diaz's Rule 35 motion is affirmed.