

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 49386

STATE OF IDAHO,)
)
) **Filed: November 1, 2022**
)
) **Plaintiff-Respondent,**)
) **Melanie Gagnepain, Clerk**
)
) **v.**)
) **THIS IS AN UNPUBLISHED**
) **MICHELLE ELISABETH REBHAN,**) **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. James S. Cawthon, 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; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

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

PER CURIAM

Michelle Elisabeth Rebhan pled guilty to trafficking in heroin. Idaho Code § 37-2732B(a)(6)(B). In exchange for her guilty plea, additional charges were dismissed. The district court sentenced Rebhan to a unified term of twenty years with ten years determinate. Rebhan filed an Idaho Criminal Rule 35 motion, which the district court denied for the reason that Rebhan did not provide any new or additional information supporting her assertion that the sentence was excessive. Although she is mindful that she did not supply any new or additional information, Rebhan appeals asserting that the district court abused its discretion by denying her Rule 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 Rebhan's Rule 35 motion was presented, the district court did not abuse its discretion. For the foregoing reasons, the district court's order denying Rebhan's Rule 35 motion is affirmed.