

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 49586

STATE OF IDAHO,)
) Filed: February 3, 2023
 Plaintiff-Respondent,)
) Melanie Gagnepain, Clerk
 v.)
) THIS IS AN UNPUBLISHED
 MICHAEL STEVEN BROWNE,) OPINION AND SHALL NOT
) BE CITED AS AUTHORITY
 Defendant-Appellant.)
)
 _____)

Appeal from the District Court of the Second Judicial District, State of Idaho, Nez Perce County. Hon. Jay P. Gaskill, District Judge.

Order denying Idaho Criminal Rule 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. Raúl R. Labrador, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

Before GRATTON, Judge; HUSKEY, Judge;
and BRAILSFORD, Judge

PER CURIAM

Michael Steven Browne pled guilty to one count of possession of a controlled substance, Idaho Code § 37-2732(c)(1). In exchange for his guilty plea, an additional allegation that he was a persistent violator was dismissed. The district court imposed a unified sentence of five years with two years determinate and placed Browne on probation for five years. Subsequently, Browne admitted to violating his probation, and the district court revoked probation and retained jurisdiction. Browne appealed and this Court affirmed the district court's order revoking probation and retaining jurisdiction. *State v. Browne*, Docket No. 48776 (Ct. App. Nov. 1, 2021) (unpublished). Browne filed a pro se Idaho Criminal Rule 35 motion for correction or reduction

of his sentence. The district court relinquished jurisdiction and ordered execution of Browne's underlying sentence. Browne filed a second pro se Rule 35 motion, which the district court denied. Browne appeals.

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 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). Upon review of the record, including any new information submitted with Browne's Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Browne's Rule 35 motion is affirmed.