

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 49767/49768

STATE OF IDAHO, )  
 )  
 ) **Filed: March 16, 2023**  
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 ) **Melanie Gagnepain, Clerk**  
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 ) **THIS IS AN UNPUBLISHED**  
 ) **OPINION AND SHALL NOT**  
 ) **BE CITED AS AUTHORITY**  
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Appeal from the District Court of the First Judicial District, State of Idaho, Kootenai County. Hon. Barbara Duggan; Hon. Scott Wayman, District Judges.

Orders relinquishing jurisdiction and denying Idaho Criminal Rule 35(b) motions for reduction of sentence, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Jenny C. Swinford, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Raúl R. Labrador, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

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

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PER CURIAM

These cases are consolidated for appeal. In Docket No. 49767, Chad Allen Robertson pled guilty to one count of unlawful possession of a firearm, Idaho Code § 18-3316(1), and a persistent violator enhancement, I.C. § 19-2514. The district court imposed a unified sentence of ten years with five years determinate and placed Robertson on probation. Subsequently, Robertson admitted to violating his probation and pled guilty in Docket No. 49768 to one count of possession of a controlled substance, I.C. § 37-2732(c)(1), and a persistent violator enhancement, I.C. § 19-2514. The district court revoked probation in Docket No. 49767 and imposed a concurrent, unified sentence of ten years with five years determinate in Docket No. 49768. The district court retained

jurisdiction, and Robertson was sent to participate in the rider program. After Robertson completed his rider, the district court relinquished jurisdiction. Robertson filed Idaho Criminal Rule 35(b) motions for reduction of his sentences, which the district court denied. Robertson appeals, claiming that the district court erred by relinquishing jurisdiction and by denying his Rule 35(b) motions.

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 Robertson has failed to show that the district court abused its discretion in relinquishing jurisdiction.

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 Robertson's Rule 35(b) motions, we conclude no abuse of discretion has been shown.

The orders of the district court relinquishing jurisdiction and denying Robertson's Rule 35(b) motions for reduction of his sentence are affirmed.