

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 49969

STATE OF IDAHO,	)
	) <b>Filed: February 13, 2023</b>
<b>Plaintiff-Respondent,</b>	)
	) <b>Melanie Gagnepain, Clerk</b>
v.	)
	) <b>THIS IS AN UNPUBLISHED</b>
<b>MICHAEL TROY GERTSCH,</b>	) <b>OPINION AND SHALL NOT</b>
	) <b>BE CITED AS AUTHORITY</b>
<b>Defendant-Appellant.</b>	)
_____	)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Samuel A. Hoagland, District Judge.

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

Eric D. Fredericksen, State Appellate Public Defender; Elizabeth A. Allred, 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; GRATTON, Judge;  
and BRAILSFORD, Judge

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PER CURIAM

Michael Troy Gertsch pled guilty to lewd conduct with a child under sixteen. Idaho Code § 18-1508. The district court sentenced Gertsch to a unified term of twenty-five years with seven years determinate. Gertsch filed an Idaho Criminal Rule 35 motion for reduction of sentence, which the district court denied. Gertsch appeals asserting that the district court abused its discretion by denying his 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). Upon review of the record, including any new information submitted with Gertsch's Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Gertsch's Rule 35 motion is affirmed.