

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 50066

STATE OF IDAHO, )  
 )  
 Plaintiff-Respondent, ) **Filed: May 18, 2023**  
 )  
 v. ) **Melanie Gagnepain, Clerk**  
 ) **THIS IS AN UNPUBLISHED**  
 DUANE ALAN YARNELL, ) **OPINION AND SHALL NOT**  
 ) **BE CITED AS AUTHORITY**  
 Defendant-Appellant. )  
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 )

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Appeal from the District Court of the First Judicial District, State of Idaho, Kootenai County. Hon. Barbara Duggan, District Judge.

Order denying Idaho Criminal Rule 35 motion, 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; GRATTON, Judge;  
and HUSKEY, Judge

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PER CURIAM

Duane Alan Yarnell pleaded guilty to two counts of aiding and abetting grand theft of a financial instrument, Idaho Code § 18-204. The district court imposed two unified sentences of five years, with a minimum period of incarceration of two years, to run concurrently. Yarnell filed an Idaho Criminal Rule 35 motion requesting the district court retain jurisdiction, place him on probation, or reduce his determinate sentence, but increase his indeterminate time, which the district court denied. Yarnell appeals.

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

an I.C.R. 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 Yarnell's I.C.R. 35 motion, we conclude no abuse of discretion has been shown.

Therefore, the district court's order denying Yarnell's I.C.R. 35 motion is affirmed.