

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 50235

STATE OF IDAHO,)
)
 Plaintiff-Respondent,) **Filed: August 11, 2023**
)
 v.) **Melanie Gagnepain, Clerk**
)
 DAVID KENT SHERILL,) **THIS IS AN UNPUBLISHED**
) **OPINION AND SHALL NOT**
) **BE CITED AS AUTHORITY**
 Defendant-Appellant.)
)
)

Appeal from the District Court of the Seventh Judicial District, State of Idaho, Bonneville Count County. Hon. Dane H. Watkins, Jr., District Judge.

Order Denying Idaho Criminal Rule 35 motion, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Sally J. Cooley, Deputy Appellate Public Defender, Boise, for appellant.

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

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

PER CURIAM

David Kent Sherill entered an *Alford*¹ plea to lewd conduct with a child under sixteen, Idaho Code § 18-1508. The district court imposed a unified sentence of twenty-five years, with a minimum period of incarceration of eleven and one-half years. Sherill filed an Idaho Criminal Rule 35 motion. Following a hearing, the district court denied Sherill’s I.C.R. 35 motion. Sherill 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

¹ See *North Carolina v. Alford*, 400 U.S. 25 (1970).

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 Sherill's I.C.R. 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Sherill's I.C.R. 35 motion is affirmed.