

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 51152

STATE OF IDAHO,)
) Filed: November 25, 2024
Plaintiff-Respondent,)
) Melanie Gagnepain, Clerk
v.)
) THIS IS AN UNPUBLISHED
MARTIN PAGE NISLEY, JR.,) OPINION AND SHALL NOT
) BE CITED AS AUTHORITY
Defendant-Appellant.)
_____)

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

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

Erik R. Lehtinen, State Appellate Public Defender; Kimberly A. Coster, Deputy Appellate Public Defender, Boise, for appellant.

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

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

PER CURIAM

Martin Page Nisley, Jr. entered an *Alford*¹ plea to arson in the second degree. Idaho Code § 18-803. In exchange for his guilty plea, additional charges were dismissed including an allegation that he was a persistent violator. The district court sentenced Nisley to a unified term of eight years, with a minimum period of confinement of two and one-half years. Nisley filed a Rule 35 motion, which the district court denied. Nisley appeals.

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

Mindful that the information presented with his Rule 35 motion was previously considered by the district court at sentencing, Nisley argues the district court erred in 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). An appeal from the denial of a Rule 35 motion cannot be used as a vehicle to review the underlying sentence absent the presentation of new information. *Id.* Because no new information in support of Nisley's Rule 35 motion was presented, the district court did not abuse its discretion. For the foregoing reasons, the district court's order denying Nisley's Rule 35 motion is affirmed.