

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 51251

STATE OF IDAHO,	)
	) <b>Filed: July 30, 2024</b>
Plaintiff-Respondent,	)
	) <b>Melanie Gagnepain, Clerk</b>
v.	)
	) <b>THIS IS AN UNPUBLISHED</b>
BLANCA FLOR MARTINEZ,	) <b>OPINION AND SHALL NOT</b>
	) <b>BE CITED AS AUTHORITY</b>
Defendant-Appellant.	)
_____	)

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Cassia County. Hon. Michael P. Tribe, District Judge.

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

Erik R. Lehtinen, 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.

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

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PER CURIAM

Blanca Flor Martinez pled guilty to possession of a forged check. Idaho Code § 18-3605. In exchange for her guilty plea, another charge was dismissed. The district court withheld judgment and placed Martinez on probation. The district court later found Martinez violated her probation and sentenced Martinez to a unified term of five years with two years determinate and retained jurisdiction. Following the period of retained jurisdiction, the district court placed Martinez on probation for a period of three years. Martinez later admitted to violating the probation and the district court revoked her probation and executed the underlying sentence of five years with two years determinate. Martinez filed an Idaho Criminal Rule 35 motion requesting a

reduction in the determinate portion of her sentence, which the district court denied.<sup>1</sup> Mindful that no new or additional information was submitted with the I.C.R. 35 motion, Martinez appeals asserting the district court erred in denying her 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 or additional information in support of Martinez's Rule 35 motion was presented, the district court did not abuse its discretion. For the foregoing reasons, the district court's order denying Martinez's Rule 35 motion is affirmed.

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<sup>1</sup> Martinez also filed a successive Idaho Criminal Rule 35 motion which was denied by the district court as untimely.