

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 42355

STATE OF IDAHO, ) 2015 Unpublished Opinion No. 489  
)  
Plaintiff-Respondent, ) Filed: May 14, 2015  
)  
v. ) Stephen W. Kenyon, Clerk  
)  
TONY DARRELL CALLAN, ) THIS IS AN UNPUBLISHED  
) OPINION AND SHALL NOT  
Defendant-Appellant. ) BE CITED AS AUTHORITY  
)

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Appeal from the District Court of the Seventh Judicial District, State of Idaho, Bonneville County. Hon. Jon J. Shindurling, District Judge.

Order denying Idaho Criminal Rule 35 motion for reduction of sentence, affirmed.

Sara B. Thomas, State Appellate Public Defender; Maya P. Waldron, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

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Before MELANSON, Chief Judge; GUTIERREZ, Judge;  
and GRATTON, Judge

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PER CURIAM

Tony Darrell Callan pled guilty to grand theft, Idaho Code § 18-2403. The district court imposed a unified sentence of fourteen years with a minimum period of confinement of three years. Callan filed an Idaho Criminal Rule 35 motion, which the district court denied. Callan 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 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 Callan's Rule 35 motion was presented, the district court did not abuse its discretion. For the foregoing reasons, the district court's order denying Callan's Rule 35 motion is affirmed.