

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 43369

STATE OF IDAHO,)	2016 Unpublished Opinion No. 341
)	
Plaintiff-Respondent,)	Filed: January 26, 2016
)	
v.)	Stephen W. Kenyon, Clerk
)	
RUSSELL YOUNGER,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Third Judicial District, State of Idaho, Canyon County. Hon. George A. Southworth, District Judge.

Order denying Idaho Criminal Rule 35 motion, affirmed.

Sara B. Thomas, State Appellate Public Defender; Ben P. McGreevy, Deputy Appellate Public Defender, Boise, for appellant.

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

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

PER CURIAM

Russell Younger pleaded guilty to lewd conduct with a minor under sixteen, felony, Idaho Code § 18-1508. The district court imposed a unified twelve-year sentence, with four years determinate, but after a period of retained jurisdiction, suspended the sentence and placed Younger on probation. Subsequently, Younger was found to have violated the terms of the probation, and the district court consequently revoked probation and ordered execution of the original sentence.¹ Younger filed an Idaho Criminal Rule 35 motion which the district court

¹ Younger’s previous appeal, Docket No. 42659, asserted the district court abused its discretion by revoking probation and imposing an excessive sentence. This court affirmed.

denied. Younger appeals asserting the district court abused its discretion by denying his I.C.R. 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 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, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Younger's I.C.R. 35 motion is affirmed.