

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 37862

STATE OF IDAHO,	)	2011 Unpublished Opinion No. 546
	)	
Plaintiff-Respondent,	)	Filed: July 15, 2011
	)	
v.	)	Stephen W. Kenyon, Clerk
	)	
CORY BRAND HINCKS,	)	THIS IS AN UNPUBLISHED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 Fourth Judicial District, State of Idaho, Ada County. Hon. Deborah A. Bail, District Judge.

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

Molly J. Huskey, State Appellate Public Defender; Jordan E. Taylor, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Jessica M. Lorello, Deputy Attorney General, Boise, for respondent.

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

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PER CURIAM

Cory Brand Hincks pled guilty to domestic violence. Idaho Code §§ 18-903, 18-918(2). The district court sentenced Hincks to ten years with three years determinate, and retained jurisdiction. Following the period of retained jurisdiction, the district court placed Hincks on probation for a period of ten years. After Hincks twice admitted to violating the terms of his probation, the district court revoked his probation and ordered the underlying sentence executed. Hincks filed an Idaho Criminal Rule 35 motion, which the district court denied. Hincks appeals asserting the district court abused its discretion by denying his I.C.R. 35 motion.

A Rule 35 motion is a request for leniency which is addressed to the sound discretion of the sentencing 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, 159 P.3d 838 (2007). Our focus on review is upon the nature of the offense and the character of the offender. *State v. Reinke*, 103 Idaho 771, 772, 653 P.2d 1183, 1184 (Ct. App. 1982). Where a sentence is not illegal, the appellant must show that it is unreasonably harsh in light of the primary objective of protecting society and the related goals of deterrence, rehabilitation and retribution. *State v. Broadhead*, 120 Idaho 141, 145, 814 P.2d 401, 405 (1991), *overruled on other grounds by State v. Brown*, 121 Idaho 385, 825 P.2d 482 (1992); *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982).

Having reviewed the record, including any new information submitted with Hincks' Rule 35 motion, we find no abuse of discretion in the district court's denial of the motion. Accordingly, the district court's order denying Hincks' I.C.R. 35 motion is affirmed.