

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 46189/46190

STATE OF IDAHO,)
) Filed: May 17, 2019
Plaintiff-Respondent,)
) Karel A. Lehrman, Clerk
v.)
) THIS IS AN UNPUBLISHED
LUCAS SHANE JAMES,) 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. John T. Mitchell, District Judge.

Orders denying Idaho Criminal Rule 35 motions, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Kimberly A. Coster, Deputy Appellate Public Defender, Boise, for appellant.

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

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

PER CURIAM

In Docket No. 46189, Lucas Shane James pleaded guilty to grand theft by unauthorized control, Idaho Code § 18-2403(3), and the district court imposed a unified ten-year sentence, with four years determinate, suspended the sentence and placed James on a term of probation. James admitted violating the terms of his probation and the district court continued him on probation. James admitted violating the terms of his probation a second time, and the district court continued James on probation with the condition that he successfully complete the Mental Health Court program. In Docket No. 46190, James pleaded guilty to felony eluding, I.C. § 49-1404(2), and the district court imposed a consecutive, five-year determinate sentence, suspended the sentence, and placed James on a term of probation. Next, James admitted that he violated the

conditions of his probation, and the district court revoked James's probation and executed his underlying sentence in both cases, but sua sponte reduced his five-year-fixed sentence in Docket No. 46190 to a unified sentence of five years, with two years determinate. James filed an Idaho Criminal Rule 35 motion in each case, which the district court denied. James 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 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). An appeal from the denial of an I.C.R. 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 James's I.C.R. 35 motion was presented, the district court did not abuse its discretion. For the foregoing reasons, the district court's orders denying James's I.C.R. 35 motions are affirmed.