IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 46599

STATE OF IDAHO,)
Plaintiff-Respondent,) Filed: November 13, 2019
v.) Karel A. Lehrman, Clerk
JESSE RAY JAGGERS,) THIS IS AN UNPUBLISHED) OPINION AND SHALL NOT) BE CITED AS AUTHORITY
Defendant-Appellant.	
	/

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Twin Falls County. Hon. Benjamin J. Cluff, District Judge.

Order denying Idaho Criminal Rule 35 motion, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Sally J. Cooley, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; John C. McKinney, Deputy Attorney General, Boise, for respondent.

Before GRATTON, Chief Judge; HUSKEY, Judge;

and LORELLO, Judge

PER CURIAM

Jesse Ray Jaggers pleaded guilty to first degree murder and robbery. The district court imposed a life sentence, with twenty-five years determinate, for the murder charge and a concurrent, determinate ten-year sentence for the robbery charge. Jaggers appealed his judgment of conviction, and this Court affirmed his judgment of conviction and sentence. *State v. Jaggers*, 117 Idaho 559, 789 P.2d 1150 (Ct. App. 1990).

Jaggers filed an Idaho Criminal Rule 35 motion for correction of an illegal sentence, asserting his sentence was illegal because a redacted presentence investigation report (PSI) was required, a new sentencing hearing before a different judge should have been ordered, Jaggers' trial counsel did not advise Jaggers that he could assert his Fifth Amendment right to silence

rather than speaking to the PSI investigator, his constitutional rights were violated when the district court failed to order a neuropsychological examination and MRI, and his Fourteenth Amendment right to due process was violated which resulted in the deprivation of his Fifth and Sixth Amendment rights. The district court denied Jaggers' motion, finding that Jaggers' sentence was not illegal pursuant to I.C.R. 35(a), and that the district court did not have jurisdiction pursuant to I.C.R. 35(b). Jaggers appeals.

In *State v. Clements*, 148 Idaho 82, 86, 218 P.3d 1143, 1147 (2009), the Idaho Supreme Court held that the term "illegal sentence" under I.C.R. 35 is narrowly interpreted as a sentence that is illegal from the face of the record, i.e., does not involve significant questions of fact or require an evidentiary hearing. Idaho Criminal Rule 35 is a "narrow rule," and because an illegal sentence may be corrected at any time, the authority conferred by I.C.R. 35 should be limited to uphold the finality of judgments. *State v. Farwell*, 144 Idaho 732, 735, 170 P.3d 397, 400 (2007). Idaho Criminal Rule 35 is not a vehicle designed to reexamine the facts underlying the case to determine whether a sentence is illegal; rather, the rule only applies to a narrow category of cases in which the sentence imposes a penalty that is simply not authorized by law or where new evidence tends to show that the original sentence was excessive. *Clements*, 148 Idaho at 86, 218 P.3d at 1147.

The record supports the district court's finding that Jaggers' sentence was not illegal. Therefore, the district court properly denied Jaggers' motion. Accordingly, we conclude no abuse of discretion has been shown, and the district court's order denying Jaggers' I.C.R. 35 motion is affirmed.