

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 38001

|                       |   |                                  |
|-----------------------|---|----------------------------------|
| STATE OF IDAHO,       | ) | 2011 Unpublished Opinion No. 517 |
|                       | ) |                                  |
| Plaintiff-Respondent, | ) | Filed: June 13, 2011             |
|                       | ) |                                  |
| v.                    | ) | Stephen W. Kenyon, Clerk         |
|                       | ) |                                  |
| WALLACE DICK JOHNSON, | ) | THIS IS AN UNPUBLISHED           |
|                       | ) | OPINION AND SHALL NOT            |
| Defendant-Appellant.  | ) | BE CITED AS AUTHORITY            |
|                       | ) |                                  |

---

Appeal from the District Court of the Seventh Judicial District, State of Idaho, Bingham County. Hon. Richard T. St. Clair, 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; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

---

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

---

PER CURIAM

Wallace Dick Johnson pleaded guilty to driving under the influence. Idaho Code §§ 18-8004(1)(A); 18-8005(7). The district court sentenced Johnson to a unified ten-year sentence with a two-year determinate term. Johnson filed an Idaho Criminal Rule 35 motion, which the district court denied. Johnson appeals from the order denying his Rule 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 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 information in support of Johnson's Rule 35 motion was presented, review of the sentence by this Court is precluded. For the foregoing reasons, the district court's order denying Johnson's Rule 35 motion is affirmed.