

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 38610

STATE OF IDAHO,)	2012 Unpublished Opinion No. 318
)	
Plaintiff-Respondent,)	Filed: January 13, 2012
)	
v.)	Stephen W. Kenyon, Clerk
)	
LARRY DOUGLAS NEWCOMER,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Michael R. McLaughlin, District Judge.

Order denying Idaho Criminal Rule 35 motion for reduction of sentence, affirmed.

Molly J. Huskey, State Appellate Public Defender; Shawn F. Wilkerson, Deputy Appellate Public Defender, Boise, for appellant.

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

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

PER CURIAM

Larry Douglas Newcomer pled guilty to felony domestic violence. Idaho Code §§ 18-918(2)(a),(4) and 18-903(a). The district court sentenced Newcomer to a unified term of ten years with two years determinate. Newcomer filed an Idaho Criminal Rule 35 motion, which the district court denied. Newcomer appeals.

A motion for reduction of sentence under Idaho Criminal Rule 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 Newcomer's Rule 35 motion was presented, Newcomer has failed to show that his sentence is excessive. Accordingly, the district court's order denying Newcomer's Rule 35 motion is affirmed.