

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 38159

STATE OF IDAHO,)	2011 Unpublished Opinion No. 626
)	
Plaintiff-Respondent,)	Filed: September 21, 2011
)	
v.)	Stephen W. Kenyon, Clerk
)	
DAYLE S. WESTRA,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the First Judicial District, State of Idaho, Bonner County. Hon. Steven C. Verby, District Judge.

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

Molly J. Huskey, State Appellate Public Defender; Diane M. Walker, 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; GUTIERREZ, Judge;
and MELANSON, Judge

PER CURIAM

Dayle S. Westra pled guilty to lewd conduct with a child under sixteen years of age. I.C. § 18-1508. The district court sentenced Westra to a unified term of twenty years, with a minimum period of confinement of two and a half years. Westra filed an appeal asserting that his sentence was excessive. This Court affirmed in an unpublished opinion. *See State v. Westra*, Docket No. 37687 (Ct. App. Dec. 2, 2010). Westra filed an I.C.R 35 motion, which the district court denied. Westra 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 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). Upon review of the record, including the new information submitted with Westra's Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Westra's Rule 35 motion is affirmed.