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State v. Smith Appellant's Brief Dckt. 43216

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 43216
Plaintiff-Respondent,)	
)	TWIN FALLS COUNTY NO. CR 2014-10580
v.)	
)	
KODI DANIEL SMITH,)	APPELLANT'S BRIEF
)	
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Kodi Daniel Smith appeals from the district court's order denying his Idaho Criminal Rule (*hereinafter*, Rule) 35 motion for reduction of sentence. Mindful of the fact that Mr. Smith did not submit new information in support of his Rule 35 motion, Mr. Smith asserts that the district court abused its discretion by denying the motion.

ISSUE

Did the district court abuse its discretion when it denied Mr. Smith's Rule 35 motion?

ARGUMENT

The District Court Abused Its Discretion When It Denied Mr. Smith's Rule 35 motion

On October 3, 2014, officers from the Twin Falls Police Department conducted a traffic stop. (R., p.13.) During the stop, an individual, later identified as Mr. Smith, attempted to walk away from the vehicle. (R., p.13.) An officer confirmed that Mr. Smith had two outstanding felony warrants. (R., p.13.) Mr. Smith was searched. (R. p.13.) In Mr. Smith's pockets the officer discovered bags of substances that later tested positive for methamphetamine. (R., pp.13-14.) Drug paraphernalia was also found in the vehicle. (R., p.14.)

Mr. Smith was charged with possession of a controlled substance with the intent to deliver. (R., p.40.) He pleaded guilty and the district court imposed a unified sentence of nine years, with one year fixed. (R., p.80.) He did not appeal from the judgment of conviction. (*See generally*, R.)

Mr. Smith then filed a Rule 35 motion. (R., p.97.) He did not provide any information in support of the motion. (R., p.97.) The district court denied the motion, holding that the sentence was reasonable and that the motion was barred by the plea agreement. (R., p.99.)

An order denying a motion for reduction of a sentence under Rule 35 is reviewed for an abuse of discretion. *State v. Hillman*, 143 Idaho 295, 296 (Ct. App. 2006). If the sentence is found to be reasonable at the time of pronouncement, the defendant must

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 4th day of December, 2015, I served a true and correct copy of the foregoing APPELLANT'S BRIEF, by causing to be placed a copy thereof in the U.S. Mail, addressed to:

KODI DANIEL SMITH
INMATE #107183
CASSIA COUNTY JAIL
1415 ALBION AVENUE
BURLEY ID 83318

G RICHARD BEVAN
DISTRICT COURT JUDGE
E-MAILED BRIEF

GEORGE P ESSMA
ATTORNEY AT LAW
E-MAILED BRIEF

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DEPUTY ATTORNEY GENERAL
CRIMINAL DIVISION
E-MAILED BRIEF

_____/s/_____
EVAN A. SMITH
Administrative Assistant

JMC/eas