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ERIC D. FREDERICKSEN
State Appellate Public Defender
I.S.B. #6555

JUSTIN M. CURTIS
Deputy State Appellate Public Defender
I.S.B. #6406
322 E. Front Street, Suite 570
Boise, Idaho 83702
Phone: (208) 334-2712
Fax: (208) 334-2985
E-mail: documents@sapd.state.id.us

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 45958
Plaintiff-Respondent,)	
)	COUNTY NO.
v.)	
)	
LORENZO ASTORGA CORRAL,)	APPELLANT'S BRIEF
)	
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Lorenzo Astorga Corral appeals from the district court's order denying his Idaho Criminal Rule (*hereinafter*, Rule) 35 motion for correction of an illegal sentence.

Statement of the Facts & Course of Proceedings

Mr. Corral was convicted of conspiracy to commit murder, Idaho Code §§ 18-4001, 18-4002, 18-4003, 18-1701, and conspiracy to commit first degree kidnapping, Idaho Code §§ 18-4501, 18-4502, 18-1701. *State v. Corral*, 2014 Unpublished Opinion No. 796 (Ct. App. 2014.) The district court imposed sentences of life, with twenty years fixed, for conspiracy to commit

murder and twenty five years, with five years fixed, for conspiracy to commit first degree kidnapping. *Id.*

In 2018, Mr. Corral filed a “motion for correction of illegal sentencing by means of violations of sentencing procedure and PSI consideration.” (R., p.97.) In his motion, he asserted that he was not told by his trial counsel that he did not have to speak with the PSI investigator. (R., p.98.) He also requested a confidential neuropsychological examination at public expense, that the PSI be redacted, and that the district court disqualify itself. (R., p.98.) The district court denied the motion, holding that the motion challenged the manner in which the sentence was imposed, not whether the sentence was authorized by law. (R., p.155.) The court concluded that Mr. Corral’s sentences were consistent with Idaho law. (R., p.157.) Mr. Corral appealed. (R., p.162.)

ISSUE

Did the district court err when it denied Mr. Corral’s Rule 35 motion for correct an illegal sentence?

ARGUMENT

The District Court Erred When It Denied Mr. Corral’s Rule 35 Motion To Correct An Illegal Sentence

Under Rule 35, a district court “may correct a sentence that is illegal from the face of the record at any time.” I.C.R. 35(a). “Generally, whether a sentence is illegal or whether it was imposed in an illegal manner is a question of law over which” appellate courts exercise free review. *State v. Farwell*, 144 Idaho 732, 735 (2007) The Idaho Supreme Court has held “the term ‘illegal sentence’ under Rule 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.” *State v. Clements*, 148 Idaho 82, 86 (2009).

Mindful of *Clements* and the fact that Mr. Corral's motion involved questions of fact surrounding the manner the sentence was imposed, Mr. Corral asserts that the district court erred by denying his motion. Mr. Corral asserted that he was not informed that he could refuse to participate in the PSI and would not have participated had he been properly informed and he asserts that this made the sentencing process fundamentally unfair. (R., p.105.)

CONCLUSION

Mr. Corral respectfully requests that this Court vacate the district court's order denying his motion to correct an illegal sentence and remand the case for further proceedings.

DATED this 25th day of October, 2018.

/s/ Justin M. Curtis
JUSTIN M. CURTIS
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of October, 2018, I caused a true and correct copy of the foregoing APPELLANT'S BRIEF, to be served as follows:

KENNETH K. JORGENSEN
DEPUTY ATTORNEY GENERAL
E-Service: ecf@ag.idaho.gov

/s/ Evan A. Smith

EVAN A. SMITH
Administrative Assistant

JMC/eas