

LAWRENCE G. WASDEN
Attorney General
State of Idaho

PAUL R. PANTHER
Deputy Attorney General
Chief, Criminal Law Division

LORI A. FLEMING
Deputy Attorney General
P.O. Box 83720
Boise, Idaho 83720-0010
(208) 334-4534
E-mail: ecf@ag.idaho.gov

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	Nos. 46189-2018 & 46190-2018
Plaintiff-Respondent,)	
)	Kootenai County Case Nos.
v.)	CR-2013-13386 & CR-2015-8730
)	
LUCAS SHANE JAMES,)	
)	RESPONDENT'S BRIEF
Defendant-Appellant.)	
_____)	

Issue

Has James failed to show any basis for reversal of the district court's orders denying his Rule 35 motions for reduction of his sentences?

James Has Failed To Establish Any Basis For Reversal Of The District Court's Orders Denying His Rule 35 Motions

In case number 46189, James pled guilty to grand theft by unauthorized control and, on June 26, 2014, the district court imposed a unified sentence of 10 years, with four years fixed, suspended the sentence, and placed James on supervised probation for four years. (46189 R.,

pp.84-89.) Approximately five months later, James violated his probation by absconding supervision. (46189 R., pp.90-92, 108-09.) On March 12, 2015, the district court continued James on supervised probation. (46189 R., pp.117-18.) Less than three months later, on May 29, 2015, James' probation officer filed a report of violation alleging that James had violated the conditions of his probation by again absconding supervision, failing to report for a scheduled appointment in April 2015, quitting his job without permission, and failing to report for drug testing as instructed. (46189 R., pp.119-22.)

On May 30, 2015, James led officers on a high-speed chase, driving at speeds of approximately 85 miles per hour in a posted 35 miles-per-hour zone, running several stop signs, and crossing over the center line numerous times, causing other vehicles on the roadway to swerve out of the way and/or to stop abruptly to avoid a collision. (46190 R., p.17.) The state charged James with felony eluding in case number 46190. (46190 R., pp.28-29.) Pursuant to a plea agreement, James pled guilty to felony eluding in case number 46190 and admitted that he violated the conditions of his probation in case number 46189 by absconding supervision, quitting his job without permission, and failing to report for drug testing after May 21, 2015, and the state withdrew the remaining allegation in case number 46189 and agreed to not file a persistent violator enhancement and to recommend a concurrent sentence and the retained jurisdiction program in case number 46190. (46189 R., pp.131-32; 46190 R., pp.31-32, 34.) The district court continued James on supervised probation until June 26, 2019, with the condition that he successfully complete the Mental Health Court program, in case number 46189. (46189 R., pp.140-41.) In case number 46190, the district court imposed a consecutive sentence of five years fixed, suspended the sentence, and placed James on supervised probation until June 26, 2019. (46190 R., pp.41-45.)

On June 15, 2017, James' probation officer filed a report of violation alleging that James had violated the conditions of his probation by crashing his vehicle into a power pole and then leaving the scene, abandoning his infant child "in someone's front yard" near the scene, and by once again absconding supervision. (46190 R., pp.52-55.) James admitted that he violated the conditions of his probation by absconding supervision, and the state withdrew the remaining allegations. (46189 R., pp.189-90; 46190 R., pp.81-82.) The district court revoked James' probation and executed his underlying sentence in both cases, *sua sponte* reducing his five-year-fixed sentence in case number 46190 to a unified sentence of five years, with two years fixed. (46189 R., pp.191-92; 46190 R., pp.81, 84-85.) James filed a timely Rule 35 motion for a reduction of sentence in each case, which the district court denied. (46189 R., pp.194-99; 46190 R., pp.86-91.) James filed a notice of appeal in each case, timely only from the district court's orders denying his Rule 35 motion. (46189 R., pp.200-03; 46190 R., pp.92-95.)

"Mindful of the fact that he provided no new or additional information with his Rule 35 motions," James nevertheless asserts that the district court abused its discretion by denying his Rule 35 motions for reduction of his sentences. (Appellant's brief, pp.1, 4-6.) James presents no argument in support of his claims. James has failed to establish any basis for reversal of the district court's orders denying his Rule 35 motions.

If a sentence is within applicable statutory limits, a motion for reduction of sentence under Rule 35 is a plea for leniency, and this court reviews the denial of the motion for an abuse of discretion. State v. Huffman, 144 Idaho, 201, 203, 159 P.3d 838, 840 (2007). To prevail on appeal, James must "show that the sentence is excessive in light of new or additional information subsequently provided to the district court in support of the Rule 35 motion." Id. James has failed to satisfy his burden.

On appeal, James acknowledges that he provided no new or additional information in support of his Rule 35 motions for reduction of sentence. (Appellant’s brief, pp.1, 5-6.) Because James presented no new evidence in support of his Rule 35 motions, he failed to demonstrate in the motions that his sentences were excessive. Having failed to make such a showing, he has failed to establish any basis for reversal of the district court’s orders denying his Rule 35 motions for reduction of his sentences.

Conclusion

The state respectfully requests this Court to affirm the district court’s orders denying James’ Rule 35 motions for reduction of his sentences.

DATED this 30th day of April, 2019.

/s/ Lori A. Fleming
LORI A. FLEMING
Deputy Attorney General

VICTORIA RUTLEDGE
Paralegal

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 30th day of April, 2019, served a true and correct copy of the attached RESPONDENT’S BRIEF to the attorney listed below by means of iCourt File and Serve:

KIMBERLY A. COSTER
DEPUTY STATE APPELLATE PUBLIC DEFENDER
documents@sapd.state.id.us.

/s/ Lori A. Fleming
LORI A. FLEMING
Deputy Attorney General