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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 46717-2019
Plaintiff-Respondent,)	
)	Ada County Case No.
v.)	CR01-18-3702
)	
AMANDA DIANE STINSON,)	
)	RESPONDENT'S BRIEF
Defendant-Appellant.)	
_____)	

Issue

Has Stinson failed to show any basis for reversal of the district court's order denying her Rule 35 motion for a reduction of sentence?

Stinson Has Failed To Establish Any Basis For Reversal Of The District Court's Order Denying Her Rule 35 Motion

Stinson pled guilty to grand theft of a leased or rented automobile and the district court imposed a unified sentence of five years, with two years fixed. (R., pp.87-90.) Stinson filed a timely Rule 35 motion for a reduction of sentence, which the district court denied. (R., pp.86,

110-12.) Stinson filed a notice of appeal timely from the district court's order denying her Rule 35 motion. (R., pp.115-19.)

“Mindful of the requirement to provide new or additional information that was not available to the district court at sentencing,” Stinson asserts that the district court abused its discretion by denying her Rule 35 motion for reduction of sentence in light of her “amenability to treatment in the House of Esther program.” (Appellant's brief, pp.3-4.) Stinson has failed to establish any basis for reversal of the district court's order denying her Rule 35 motion.

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, Stinson 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. Stinson has failed to satisfy her burden.

The only information Stinson provided in support of her Rule 35 motion for a reduction of sentence was a two-page letter of acceptance into the House of Esther treatment facility and a copy of a brochure about the program. (R., pp.92-95.) This was not “new” information, as the fact that Stinson had been accepted into the House of Esther program and the pertinent facts about the program were included in the presentence materials, and were, therefore, before the district court at the time of sentencing. (PSI, pp.11, 90-91.¹) Because Stinson presented no new evidence in support of her Rule 35 motion, she failed to demonstrate in the motion that her sentence was excessive. Having failed to make such a showing, she has failed to establish any

¹ PSI page numbers correspond with the page numbers of the electronic file “Stinson 46717 psi.pdf.”

basis for reversal of the district court's order denying her Rule 35 motion for reduction of sentence.

Conclusion

The state respectfully requests this Court to affirm the district court's order denying Stinson's Rule 35 motion for reduction of sentence.

DATED this 18th day of July, 2019.

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

VICTORIA RUTLEDGE
Paralegal

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 18th day of July, 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:

BRIAN R. DICKSON
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/s/ Lori A. Fleming
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