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

JENNY C. SWINFORD
Deputy State Appellate Public Defender
I.S.B. #9263
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,)	
)	
Plaintiff-Respondent,)	NO. 47772-2020
)	
v.)	ADA COUNTY NO. CR01-18-61167
)	
DOUGLAS WAYNE ADAMS,)	
)	APPELLANT’S BRIEF
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

The district court sentenced Douglas W. Adams to ten years, with three years fixed, for driving under the influence (DUI), a felony due to a prior DUI conviction. Pursuant to Idaho Criminal Rule 35, Mr. Adams moved for a reduction in his sentence. The district court denied his motion. Mr. Adams now appeals. He argues the district court abused its discretion by denying his Rule 35 motion.

Statement of Facts and Course of Proceedings

In May 2019, Mr. Adams pled guilty to felony DUI. (R., p.20.) At sentencing, the State recommended the district court impose a sentence of ten years, with three years fixed. (Tr., p.6,

LS.3–6.) Mr. Adams requested the district court place him on probation for ten years. (Tr., p.31, Ls.10.16.) The district court agreed with the State’s recommendation and imposed a ten-year sentence, with three years fixed. (Tr., p.52, L.25–p.53, L.2.) In August 2019, the district court entered a judgment of conviction. (R., pp.34–37.)

In September 2019, Mr. Adams filed a timely Rule 35 motion. (R., pp.42–44.) He requested the district court place him on probation, allow him to apply to and participate in Mental Health Court, or reduce his sentence. (R., p.43.) Mr. Adams also included a memorandum in support, which contained a GAIN evaluation, a mental health evaluation, a letter from his cousin, and a letter from Mr. Adams. (R., pp.45–59; Exs., pp.1–32.) In January 2020, the district court denied Mr. Adams’s motion. (R., pp.61–62.)

ISSUE

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

ARGUMENT

The District Court Abused Its Discretion When It Denied Mr. Adams’s Rule 35 Motion

“A Rule 35 motion for reduction of sentence is essentially a plea for leniency, addressed to the sound discretion of the court.” *State v. Carter*, 157 Idaho 900, 903 (Ct. App. 2014). In reviewing the grant or denial of a Rule 35 motion, the Court must “consider the entire record and apply the same criteria used for determining the reasonableness of the original sentence.” *Id.* The Court “conduct[s] an independent review of the record, having regard for the nature of the offense, the character of the offender and the protection of the public interest.” *State v. Burdett*, 134 Idaho 271, 276 (Ct. App. 2000). “Where an appeal is taken from an order refusing to reduce a sentence under Rule 35,” the Court’s scope of review “includes all information submitted at the

original sentencing hearing and at the subsequent hearing held on the motion to reduce.” *State v. Araiza*, 109 Idaho 188, 189 (Ct. App. 1985). “When 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 Rule 35 motion.” *State v. Huffman*, 144 Idaho 201, 203 (2007).

Here, Mr. Adams asserts the district court did not exercise reason and thus abused its discretion by denying his Rule 35 motion. Mr. Adams provided new and additional information in support of his motion to justify a sentence reduction, a placement on probation, or an opportunity to participate in Mental Health Court. Although the presentence investigation report (“PSI”)¹ included Mr. Adams’s GAIN evaluation and mental health evaluation, the district court was not informed at the time of sentencing that Mr. Adams wanted to participate in mental health court. (*See* PSI, pp.203–15 (GAIN evaluation), 216–26 (mental health evaluation); R., p.49.) In fact, Mr. Adams wanted to present this information to the district court at sentencing, but his trial counsel refused. (Exs., p.28.) Mr. Adams recognized that his mental illness contributed to his alcoholism, and he understood that he had to obtain proper treatment for his mental health issues if he wanted to stay sober. (R., pp.49–51.) In a letter to the district court, Mr. Adams wrote that he was ashamed and embarrassed that he gave up his five years of sobriety in one night. (Exs., pp.30, 32.) He believed that he needed to address his bipolar disorder to get to the root cause of his alcoholism. (Exs., pp.31–32.) He explained that he had successfully completed treatment for his alcohol abuse in the past, but his underlying mental health issues were never addressed. (Exs., p.30.) Mr. Adams was confident that, if he got treatment for his bipolar disorder, he could abstain from alcohol. (Exs., p.32.) Similarly, Mr. Adams’s cousin wrote a letter to the district

¹ Citations to the PSI refer to the 495-page electronic document with the confidential exhibits in this case.

court that explained their family's struggles with bipolar disorder. (R., p.55.) Mr. Adams's father and his father's two siblings all had bipolar disorder. (R., p.55.) Mr. Adams's father died at [REDACTED] and the family believed that his death was attributable to his failure to obtain proper treatment for his bipolar disorder. (R., p.55.) Mr. Adams's cousin did not want the same outcome for Mr. Adams. (R., p.55.) She hoped that he could get treatment and learn to manage his mental health issues. (R., pp.55–56.)

This new and additional information from Mr. Adams's motion, his letter, and his cousin's letter showed that his initial sentence of ten years, with three years fixed, was excessive. Proper consideration of this information supported a reduction in his sentence, placement on probation, or the opportunity to participate in Mental Health Court. Therefore, Mr. Adams submits the district court did not exercise reason and thus abused its discretion when it denied his Rule 35 motion.

CONCLUSION

Mr. Adams respectfully requests this Court reduce his sentence as it deems appropriate. In the alternative, he respectfully requests this Court vacate the district court's order denying his Rule 35 motion and remand this case for a Rule 35 motion hearing.

DATED this 21st day of August, 2020.

/s/ Jenny C. Swinford
JENNY C. SWINFORD
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of August, 2020, 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

JCS/eas