

FILED _____

AT _____ O'clock ___ M
CLERK, DISTRICT COURT

Deputy

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO IN AND FOR THE COUNTY OF KOOTENAI**

STATE OF IDAHO,)
)
)
Plaintiff,)
)
vs.)
)
)
LUCAS SHANE JAMES)
DOB: 11/10/1984)
SSN: ***-**-4427)
IDOC: 109337)
)
)
Defendant.)

Case No. **CRF 2013 13386**
CRF 2015 8730

**ORDER DENYING I.C.R. 35
MOTION AND NOTICE OF
RIGHT TO APPEAL**

On June 26, 2014, LUCAS SHANE JAMES (James) was sentenced as follows:

**CRF 2013 13386 - GRAND
THEFT BY
UNAUTHORIZED
CONTROL**

To the custody of the State of Idaho Board of Correction for a fixed sentence of FOUR (4) years followed by an indeterminate term of SIX (6) years for a total unified sentence of TEN (10) years.

James was placed on supervised probation. On October 8, 2015, James was sentenced as follows for a new crime he committed on May 30, 2015:

**CRF 2015 8730 - COUNT 1 -
FLEE OR ATTEMPT TO
ELUDE A POLICE
OFFICER IN A MOTOR
VEHICLE**

To the custody of the State of Idaho Board of Correction for a fixed sentence of FIVE (5) years followed by an indeterminate term of ZERO (0) years for a total unified sentence of FIVE (5) years **THIS SENTENCE RUNS CONSECUTIVE TO THE SENTENCE PREVIOUSLY IMPOSED IN CRF 2013 13386..**

On June 5, 2017, James committed new crimes in the State of Washington.

James crashed a vehicle into a power pole. After causing the wreck, James, knowing he had absconded from probation, fled the scene of the accident, initially taking his child from

the wrecked vehicle but soon thereafter leaving his infant son behind, as carrying him was slowing him down.

A probation violation hearing was held on March 15, 2018. The allegations of that probation violation were the new crimes committed in Washington and absconding from probation. James admitted to absconding, the plaintiff withdrew the allegations regarding new crimes committed in Washington. At that hearing, the Court imposed the sentences mentioned above, but reduced the sentence in CRF 2015 8730 to two years fixed and three years indeterminate, for a total sentence of five years. Apparently, that modification was not enough, and James, through counsel, filed his “Motion for Reconsideration of Sentence Pursuant to I.C.R. 35” (I.C.R. 35 Motion), the next day, March 16, 2018. James requested a hearing and a hearing was scheduled for May 1, 2018. Upon review of this file, the Court determined a hearing would not be necessary. A motion to modify a sentence “shall be considered and determined by the court without the admission of additional testimony and without oral argument, unless otherwise ordered by the court in its discretion.” I.C.R. 35; *see State v. Copenhaver*, 129 Idaho 494, 496, 927, P.2d 884, 886 (1996); *State v. James*, 112 Idaho 239, 242, 731 P.2d 234, 237 (Ct. App. 1986) (it is the defendant’s burden to present any additional evidence and the court cannot abuse its discretion in “...unduly limiting the information considered in deciding a Rule 35 motion”); *State v. Puga*, 114 Idaho 117, 118, 753 P.2d 1263, 1264 (Ct. App. 1987). Even though a hearing was requested, “[t]he decision whether to conduct a hearing on an I.C.R. 35 motion to reduce a legally-imposed sentence is directed to the sound discretion of the district court.” *State v. Peterson*, 126 Idaho 522, 525, 887 P.2d 67, 70 (Ct. App. 1994); *citing State v. Findeisen*, 119 Idaho 903, 811 P.2d 513 (Ct. App. 1991). The Court has reviewed the Motion for Reconsideration of Sentence Pursuant to I.C.R. 35, the Court

minutes and the pre-sentence report. There is nothing that could be presented at a hearing that would be of benefit to the Court. A hearing would only waste counsel and the Court's time.

A motion to reduce sentence is a motion for leniency. *State v. Strand*, 137 Idaho 457, 463, 50 P.3d 472, 478 (2002); *State v. Burnight*, 132 Idaho 654, 659, 978 P.2d 214, 219 (1999). The decision to grant or deny leniency is left to the sound discretion of the court. *Strand*, 137 Idaho at 463, 50 P.3d at 478. *State v. Allbee*, 115 Idaho 845, 846, 771 P.2d 66, 67 (Ct. App. 1989).

A motion to reduce an otherwise lawful sentence is addressed to the sound discretion of the sentencing court. *State v. Arambula*, 97 Idaho 627, 550 P.2d 130 (1976). Such a motion is essentially a plea for leniency, which may be granted if the sentence originally imposed was unduly severe. *State v. Lopez*. 106 Idaho 447, 680 P.2d 869 (Ct. App. 1984). . . .

However, if the sentence is not excessive when pronounced, the defendant must later show that it is excessive in view of new or additional information presented with his motion.

State v. Forde, 113 Idaho 21, 22, 740 P.2d 63, 64 (Ct. App. 1987); *see also State v. Adams*, 137 Idaho 275, 278, 47 P.3d 778, 781 (Ct. App. 2002).

For a sentence to be considered "reasonable" at the time of sentencing the court must consider the objectives of sentencing: whether confinement is necessary to accomplish the objective of protection of society and to achieve any or all of the related goals of deterrence, rehabilitation, or retribution applicable to the case. *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). This requires the court focus on "the nature of the offense, the character of the offender, and the protection of the public interest." *State v. Reinke*, 103 Idaho 771, 772, 653 P.2d 1183, 1184 (Ct. App. 1982).

The sentences imposed on June 26, 2014, and October 8, 2015, were and are appropriate sentences given James's social and criminal history and the crimes for which sentences were imposed, and for the spectacularly bad acts (absconding) committed in

the State of Washington while on probation. If James is willing to abscond, and as a result of absconding, knowing he'd likely be taken into custody following a wreck he caused, and abandoning his own child, there is no hope for James on probation. James was already given a reduction of his more recent sentence, only to incentivize James' good performance in prison. Any further reduction of either of these sentences would depreciate the seriousness of James's crimes. This Court concludes that the sentence imposed was and is necessary for the protection of society and the deterrence of James and others.

IT IS THEREFORE ORDERED that James's I.C.R. 35 Motion is **DENIED**.

NOTICE OF RIGHT TO APPEAL

YOU, LUCAS SHANE JAMES, ARE HEREBY NOTIFIED that you have a right to appeal this order to the Idaho Supreme Court. Any notice of appeal must be filed within forty-two (42) days of the entry of the written order in this matter.

YOU ARE FURTHER NOTIFIED that if you are unable to pay the costs of an appeal, you have the right to apply for leave to appeal in forma pauperis or to apply for the appointment of counsel at public expense. If you have questions concerning your right to appeal, you should consult your present lawyer, if any.

DATED this 27th day of April.

John T. Mitchell, District Judge

CERTIFICATE OF MAILING

I hereby certify that on the _____ day of April copies of the foregoing were mailed, postage prepaid, or sent by interoffice mail or facsimile to:

Defense Attorney - Zachary Jones
Prosecuting Attorney -

Idaho Department of Correction
Records Division (certified copy)
Fax: (208) 327-7445

LUCAS SHANE JAMES
IDOC # 109337

**CLERK OF THE DISTRICT COURT
KOOTENAI COUNTY**

Probation & Parole

BY: _____, Deputy

