

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 42376

STATE OF IDAHO,) 2015 Unpublished Opinion No. 341
)
Plaintiff-Respondent,) Filed: February 10, 2015
)
v.) Stephen W. Kenyon, Clerk
)
LISA RENEE HENSDELL,) THIS IS AN UNPUBLISHED
) OPINION AND SHALL NOT
Defendant-Appellant.) BE CITED AS AUTHORITY
)

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Jerome County. Hon. John K. Butler, District Judge.

Order revoking probation, affirmed.

Sara B. Thomas, State Appellate Public Defender; Ben P. McGreevy, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

Before LANSING, Judge; GUTIERREZ, Judge;
and GRATTON, Judge

PER CURIAM

Lisa Renee Hensdell was convicted of one count of leaving the scene of an injury accident, Idaho Code § 18-8007; one count of inattentive driving, I.C. § 49-1401(3); and one count of driving without privileges, I.C. § 18-8001(3). The district court imposed a unified five-year sentence with a two-year determinate term for leaving the scene of an injury accident, and concurrent sentences of ninety days in the county jail for inattentive driving, and 180 days in the county jail for driving without privileges. The district court suspended the sentences and placed Hensdell on supervised probation for five years. Subsequently, Hensdell admitted to violating the terms of the probation, and the district court consequently revoked probation, ordered

execution of the original sentences, and retained jurisdiction. Following a review hearing, the district court suspended the balance of Hensdell's sentences and again placed her on probation. Subsequently, the State filed a motion to revoke probation and the district court revoked probation and retained jurisdiction for a second time. Hensdell appeals, contending that the district court abused its discretion in revoking probation.

It is within the trial court's discretion to revoke probation if any of the terms and conditions of the probation have been violated. I.C. §§ 19-2603, 20-222; *State v. Beckett*, 122 Idaho 324, 325, 834 P.2d 326, 327 (Ct. App. 1992); *State v. Adams*, 115 Idaho 1053, 1054, 772 P.2d 260, 261 (Ct. App. 1989); *State v. Hass*, 114 Idaho 554, 558, 758 P.2d 713, 717 (Ct. App. 1988). In determining whether to revoke probation a court must examine whether the probation is achieving the goal of rehabilitation and consistent with the protection of society. *State v. Upton*, 127 Idaho 274, 275, 899 P.2d 984, 985 (Ct. App. 1995); *Beckett*, 122 Idaho at 325, 834 P.2d at 327; *Hass*, 114 Idaho at 558, 758 P.2d at 717. The court may, after a probation violation has been established, order that the suspended sentence be executed or, in the alternative, the court is authorized under Idaho Criminal Rule 35 to reduce the sentence. *Beckett*, 122 Idaho at 325, 834 P.2d at 327; *State v. Marks*, 116 Idaho 976, 977, 783 P.2d 315, 316 (Ct. App. 1989). The court may also order a period of retained jurisdiction. *State v. Urrabazo*, 150 Idaho 158, 162, 244 P.3d 1244, 1248 (2010). A decision to revoke probation will be disturbed on appeal only upon a showing that the trial court abused its discretion. *Beckett*, 122 Idaho at 325, 834 P.2d at 327. In reviewing the propriety of a probation revocation, the focus of the inquiry is the conduct underlying the trial court's decision to revoke probation. *State v. Morgan*, 153 Idaho 618, 621, 288 P.3d 835, 838 (Ct. App. 2012). Thus, this Court will consider the elements of the record before the trial court relevant to the revocation of probation issues which are properly made part of the record on appeal. *Id.*

Applying the foregoing standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion in revoking probation. Therefore, the order revoking probation and directing execution of Hensdell's previously suspended sentences is affirmed.