

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 43340

STATE OF IDAHO,	)	2016 Unpublished Opinion No. 347
	)	
Plaintiff-Respondent,	)	Filed: January 27, 2016
	)	
v.	)	Stephen W. Kenyon, Clerk
	)	
JUSTIN DEAN HEIGEL,	)	THIS IS AN UNPUBLISHED
	)	OPINION AND SHALL NOT
Defendant-Appellant.	)	BE CITED AS AUTHORITY
	)	

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Appeal from the District Court of the First Judicial District, State of Idaho, Boundary County. Hon. Barbara A. Buchanan, District Judge.

Order relinquishing jurisdiction, 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.

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Before MELANSON, Chief Judge; GUTIERREZ, Judge;  
and HUSKEY, Judge

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PER CURIAM

Justin Dean Heigel pleaded guilty to aggravated battery, felony, Idaho Code § 18-907. The district court imposed a six-year sentence, with three years determinate, suspended the sentence, and retained jurisdiction. Following the jurisdiction review hearing, the district court relinquished jurisdiction. Heigel filed an Idaho Criminal Rule 35 motion, which the district court denied.<sup>1</sup> Heigel appeals, claiming the district court erred by refusing to grant probation or grant another opportunity to participate in the retained jurisdiction program.

Retained jurisdiction allows the trial court an extended time to evaluate a defendant's suitability for probation. *State v. Vivian*, 129 Idaho 375, 379, 924 P.2d 637, 641 (Ct. App. 1996).

<sup>1</sup> Heigel does not appeal from the denial of his I.C.R. 35 motion.

We note that the decision to place a defendant on probation or whether, instead, to relinquish jurisdiction over the defendant is a matter within the sound discretion of the district court and will not be overturned on appeal absent an abuse of that discretion. *State v. Hood*, 102 Idaho 711, 712, 639 P.2d 9, 10 (1981); *State v. Lee*, 117 Idaho 203, 205-06, 786 P.2d 594, 596-97 (Ct. App. 1990). The record in this case shows that the district court properly considered the information before it and determined that probation was not appropriate. We hold that Heigel has failed to show that the district court abused its discretion in relinquishing jurisdiction.

The order of the district court relinquishing jurisdiction is affirmed.