

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 42660 & 42662

STATE OF IDAHO, ) 2015 Unpublished Opinion No. 557  
 )  
Plaintiff-Respondent, ) Filed: July 20, 2015  
 )  
v. ) Stephen W. Kenyon, Clerk  
 )  
WILLIAM MICHAEL VINCENT HOYT ) THIS IS AN UNPUBLISHED  
MADLIN, ) OPINION AND SHALL NOT  
 ) BE CITED AS AUTHORITY  
Defendant-Appellant. )  
 )  
\_\_\_\_\_ )

Appeal from the District Court of the Second Judicial District, State of Idaho, Latah County. Hon. John R. Stegner, District Judge.

Orders revoking probation, affirmed.

Sara B. Thomas, State Appellate Public Defender; Brian R. Dickson, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Jessica M. Lorello, Deputy Attorney General, Boise, for respondent.

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Before MELANSON, Chief Judge; GUTIERREZ, Judge;  
and GRATTON, Judge  
\_\_\_\_\_

PER CURIAM

In Docket No. 42660, William Michael Vincent Hoyt Madlin pled guilty to felony domestic violence. I.C. § 18-918. The district court sentenced Madlin to a unified term of five years, with a minimum period of confinement of two years, but retained jurisdiction for 180 days.

In Docket No. 42662, Madlin entered an *Alford*<sup>1</sup> guilty to felony injury to a child. I.C. § 18-1501. The district court sentenced Madlin to a unified term of five years, with a minimum period of confinement of two years, and also retained jurisdiction. Following Madlin's rider, the district court suspended the sentences and placed Madlin on probation. After six probation violations, drug court, court-ordered treatment and four periods of retained jurisdiction, the district court ultimately revoked Madlin's probation and ordered execution of his original sentences. Madlin appeals, contending that the district court abused its discretion in revoking probation and that the sentences are excessive.

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.*

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<sup>1</sup> See *North Carolina v. Alford*, 400 U.S. 25 (1970).

Sentencing is also a matter for the trial court's discretion. Both our standard of review and the factors to be considered in evaluating the reasonableness of a sentence are well established and need not be repeated here. *See State v. Hernandez*, 121 Idaho 114, 117-18, 822 P.2d 1011, 1014-15 (Ct. App. 1991); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 726, 170 P.3d 387, 391 (2007).

When we review a sentence that is ordered into execution following a period of probation, we will examine the entire record encompassing events before and after the original judgment. *State v. Hanington*, 148 Idaho 26, 29, 218 P.3d 5, 8 (Ct. App. 2009). We base our review upon the facts existing when the sentence was imposed as well as events occurring between the original sentencing and the revocation of probation. *Id.* Thus, this Court will consider the elements of the record before the trial court that are properly made part of the record on appeal and are relevant to the defendant's contention that the trial court should have reduced the sentence sua sponte upon revocation of probation. *Morgan*, 153 Idaho at 621, 288 P.3d at 838.

Applying the foregoing standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion either in revoking probation or in ordering execution of Madlin's sentences without modification. Therefore, the orders revoking probation and directing execution of Madlin's previously suspended sentences are affirmed.