

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 43455

STATE OF IDAHO,	)	2016 Unpublished Opinion No. 330
	)	
Plaintiff-Respondent,	)	Filed: January 19, 2016
	)	
v.	)	Stephen W. Kenyon, Clerk
	)	
MICHAEL KENNETH MURPHY, JR.,	)	THIS IS AN UNPUBLISHED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 Second Judicial District, State of Idaho, Latah County. Hon. John R. Stegner, District Judge.

Judgment relinquishing jurisdiction and imposing sentence, affirmed.

Sara B. Thomas, State Appellate Public Defender; Jenevieve C. Swinford, Deputy Appellate Public Defender, Boise, for appellant.

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

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

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PER CURIAM

Michael Kenneth Murphy Jr. pleaded guilty to burglary, Idaho Code §§ 18-1401, 18-1403. The district court imposed a unified five-year sentence, with two years determinate, but after a period of retained jurisdiction, suspended the sentence and placed Murphy on probation. Subsequently, Murphy admitted to violating the terms of the probation, and the district court consequently revoked probation and ordered execution of the original sentence, but retained jurisdiction a second time. After Murphy’s period of retained jurisdiction, the district court suspended the sentence and placed him on probation. Subsequently, Murphy admitted to violating the terms of his probation again and the district court revoked probation and ordered execution of the original sentence, but retained jurisdiction for a third time. Prior to completing

the rider program, the district court relinquished jurisdiction and executed the original sentence. Murphy appeals, contending that the district court abused its discretion by relinquishing jurisdiction and executing the underlying five-year sentence, with two years fixed.

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.

Applying the foregoing standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion in relinquishing jurisdiction and ordering execution of Murphy's sentence. Therefore, the judgment relinquishing jurisdiction and imposing sentence is affirmed.