

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 44054

STATE OF IDAHO,) 2016 Unpublished Opinion No. 719
)
Plaintiff-Respondent,) Filed: October 5, 2016
)
v.) Stephen W. Kenyon, Clerk
)
DAVID PROVENCIO,) THIS IS AN UNPUBLISHED
) OPINION AND SHALL NOT
Defendant-Appellant.) BE CITED AS AUTHORITY
)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Steve J. Hippler, District Judge.

Judgment of conviction and unified sentence of fifteen years, with a minimum period of confinement of five years, for involuntary manslaughter with a deadly weapon, affirmed.

Eric D. Fredericksen, Interim State Appellate Public Defender; Jenny C. Swinford, Deputy Appellate Public Defender, Boise, for appellant.

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

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

PER CURIAM

David Provencio pled guilty to involuntary manslaughter with a deadly weapon. Idaho Code §§ 18-4006(2), 19-2520. The district court sentenced Provencio to a unified term of fifteen years with five years determinate. Provencio appeals asserting that the district court abused its discretion by declining to retain jurisdiction.

The primary purpose of the retained jurisdiction program is to enable the trial court to obtain additional information regarding the defendant's rehabilitative potential and suitability for probation, and probation is the ultimate objective of a defendant who is on retained jurisdiction.

State v. Chapel, 107 Idaho 193, 687 P.2d 583 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 567, 650 P.2d 707, 709 (Ct. App. 1982). There can be no abuse of discretion in a trial court's refusal to retain jurisdiction if the court already has sufficient information upon which to conclude that the defendant is not a suitable candidate for probation. *State v. Beebe*, 113 Idaho 977, 979, 751 P.2d 673, 675 (Ct. App. 1988); *Toohill*, 103 Idaho at 567, 650 P.2d at 709. Based upon the information that was before the district court at the time of sentencing, we hold that the district court did not abuse its discretion when it declined to retain jurisdiction.

Therefore, Provencio's judgment of conviction and sentence are affirmed.