

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 44667

STATE OF IDAHO,)	2017 Unpublished Opinion No. 570
)	
Plaintiff-Respondent,)	Filed: September 1, 2017
)	
v.)	Karel A. Lehrman, Clerk
)	
LINDOMAR JOSE AVELAR,)	THIS IS AN UNPUBLISHED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.

Judgment of conviction and unified sentence of ten years, with a minimum period of confinement of three years, for felony driving under the influence, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Justin M. Curtis, Deputy Appellate Public Defender, Boise, for appellant.

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

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

PER CURIAM

Lindomar Jose Avelar pled guilty to felony driving under the influence. Idaho Code §§ 18-8004, 18-8005(9). The district court sentenced Avelar to a unified term of ten years with three years determinate, and ordered that the sentence run concurrently with a previous case for which Avelar was on parole when he committed the instant offense. Avelar asserts the district court abused its discretion when it ordered his sentence into execution, rather than retaining 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.