

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 44827/44828/44829

STATE OF IDAHO,	)	2017 Unpublished Opinion No. 575
	)	
Plaintiff-Respondent,	)	Filed: September 7, 2017
	)	
v.	)	Karel A. Lehrman, Clerk
	)	
SEAN ISAAC SWANSON,	)	THIS IS AN UNPUBLISHED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, Kootenai County. Hon. Scott L. Wayman, District Judge.

Orders relinquishing jurisdiction, affirmed.

Eric D. Fredericksen, 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.

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

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PER CURIAM

These cases are consolidated on appeal. In Docket No. 44827, Sean Isaac Swanson pled guilty to possession of methamphetamine, Idaho Code § 37-2732(c)(1). The district court imposed a unified sentence of four years, with two years determinate, suspended the sentence and placed Swanson on probation. Swanson admitted to violating the terms of his probation, and the district court revoked probation and ordered execution of the underlying sentence. The district court retained jurisdiction, and Swanson was sent to participate in the rider program. Upon completion of the rider, Swanson was placed back on probation.

In Docket No. 44828, Swanson pled guilty to one count of possession of oxycodone, I.C. § 37-2732(c)(1), in violation of his probation in Docket No. 44827. The district court imposed a unified sentence of five years, with two and one-half years determinate, suspended the sentence and placed Swanson on probation. In Docket No. 44827, the district court extended the term of probation by two years. The sentences were ordered to run concurrently and, as a condition of probation, Swanson was ordered to successfully complete drug court.

In Docket No. 44829, Swanson pled guilty to possession of heroin and possession of methamphetamine, I.C. § 37-3732(c)(1). In exchange for his guilty plea, additional charges were dismissed. Swanson admitted to violating probation in Docket Nos. 44827 and 44828, and the district court revoked probation and imposed concurrent unified sentences of five years, with two years determinate, in Docket No. 44829, retaining jurisdiction in all three cases.

After Swanson completed his rider, the district court relinquished jurisdiction. Swanson filed Idaho Criminal Rule 35 motions for reduction of his sentences in each case. In Docket No. 44828, the district court granted the Rule 35 motion in part by reducing the determinate term to two years. Swanson appeals, claiming that the district court erred by refusing to grant probation.

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 Swanson has failed to show that the district court abused its discretion in relinquishing jurisdiction.

Swanson argues that all of the relevant goals of sentencing could have been accomplished with probation. As noted above, however, the district court found that probation was not an appropriate course of action in Swanson's case.

Applying the foregoing standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion in ordering execution of Swanson's sentences. The orders of the district court relinquishing jurisdiction and Swanson's sentences are affirmed.