

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 46065 and 46066

STATE OF IDAHO,)
)
) **Filed: March 11, 2019**
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) **Karel A. Lehrman, Clerk**
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) **THIS IS AN UNPUBLISHED**
) **OPINION AND SHALL NOT**
) **BE CITED AS AUTHORITY**
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Appeal from the District Court of the Fifth Judicial District, State of Idaho, Minidoka County. Hon. Jonathan P. Brody, District Judge.

Order 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.

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

PER CURIAM

Patricia Ann Pool pleaded guilty to felony possession of a controlled substance, methamphetamine, Idaho Code § 37-2732(c)(1). Before the sentence hearing, Pool was charged with a second felony possession of controlled substance, methamphetamine, I.C. § 37-2732(c)(1). Pool pleaded guilty to the second charge of felony possession of a controlled substance, methamphetamine. On each charge, the district court imposed a concurrent, unified sentence of seven-years, with four years determinate, and retained jurisdiction. Pool was sent to participate in the rider program. After receipt of a letter from the Idaho Department of Correction recommending relinquishment, the district court relinquished jurisdiction. Pool filed

an Idaho Criminal Rule 35 motion, which the district court denied. Pool 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 Pool has failed to show that the district court abused its discretion in relinquishing jurisdiction.

The order of the district court relinquishing jurisdiction and Pool's sentence are affirmed.