

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 46530 & 46531

STATE OF IDAHO,)
) Filed: November 22, 2019
 Plaintiff-Respondent,)
) Karel A. Lehrman, Clerk
 v.)
) THIS IS AN UNPUBLISHED
 DANIEL RAY SCHMIDT,) OPINION AND SHALL NOT
) BE CITED AS AUTHORITY
 Defendant-Appellant.)
)
 _____)

Appeal from the District Court of the Seventh Judicial District, State of Idaho, Bingham County. Hon. Darren B. Simpson, District Judge.

Judgment of conviction and unified sentence of life imprisonment, with five years determinate, for possession of a controlled substance with a persistent violator enhancement, and judgments of conviction and unified sentences of five years, with two years determinate, for fleeing or attempting to elude a peace officer and operating a motor vehicle without the owner's consent affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Ben P. McGreevy, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

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

PER CURIAM

This appeal stems from two consolidated cases. In the first case, Daniel Ray Schmidt pleaded guilty to possession of a controlled substance, methamphetamine, Idaho Code § 37-2732(c)(1), and a persistent violator enhancement, I.C. § 19-2514. The district court imposed a unified sentence of life imprisonment, with five years determinate, and retained jurisdiction. In the second case, Schmidt entered a guilty plea to fleeing or attempting to elude a peace officer, I.C. § 49-1404(2)(c), and operating a motor vehicle without the owner's consent, I.C. § 49-427.

The district court imposed concurrent, unified five-year sentences, with two years determinate, for each charge and retained jurisdiction. The sentences were ordered to run concurrently with the possession sentence. Schmidt was sent to participate in the rider program. Schmidt filed an Idaho Criminal Rule 35 motion in each case, which the district court denied. Subsequently, the district court relinquished jurisdiction. Schmidt filed an appeal in each case.

The Supreme Court dismissed Schmidt's appeal in the possession case as untimely. Schmidt filed a post-conviction petition claiming his trial counsel failed to appeal his original sentences. Schmidt was granted relief and the district court re-issued judgments of conviction in each case. Schmidt appeals, claiming that the district court erred by retaining jurisdiction instead of placing him on probation.

A trial court's decision whether to retain jurisdiction is, like the original sentencing decision, a matter committed to the trial court's discretion. *State v. Hernandez*, 122 Idaho 227, 230, 832 P.2d 1162, 1165 (Ct. App. 1992). Retained jurisdiction allows the trial court an extended time to evaluate a defendant's suitability for probation. *State v. Vivian*, 129 Idaho 375, 379, 924 P.2d 637, 641 (Ct. App. 1996). The purpose of retaining jurisdiction after imposing a sentence is to afford the trial court additional time for evaluation of the defendant's rehabilitation potential and suitability for probation. *State v. Atwood*, 122 Idaho 199, 201, 832 P.2d 1134, 1136 (Ct. App. 1992).

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 Schmidt has failed to show that the district court abused its discretion in retaining or subsequently relinquishing jurisdiction and Schmidt's sentences are affirmed.