

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 46889

STATE OF IDAHO,)
) Filed: February 5, 2020
 Plaintiff-Respondent,)
) Karel A. Lehrman, Clerk
 v.)
) THIS IS AN UNPUBLISHED
 ADAM JAMES SMITH,) OPINION AND SHALL NOT
) BE CITED AS AUTHORITY
 Defendant-Appellant.)
)
 _____)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Nancy A. Baskin, District Judge.

Order relinquishing jurisdiction, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Reed P. Anderson, Deputy Appellate Public Defender, Boise, for appellant.

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

Before GRATTON, Judge; LORELLO, Judge;
and BRAILSFORD, Judge

PER CURIAM

Adam James Smith pled guilty to felony attempted injury to children, Idaho Code §§ 18-1501, 18-306. The district court imposed a unified sentence of five years with three years determinate and retained jurisdiction. Smith was sent to participate in the rider program. Smith completed his rider and, at the jurisdictional review hearing, Smith's counsel made an oral Idaho Criminal Rule 35 motion for reduction of sentence. The district court relinquished jurisdiction and partially granted Smith's Rule 35 motion, reducing his sentence to four and one-half years with two and one-half years determinate. Smith 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 Smith has failed to show that the district court abused its discretion in relinquishing jurisdiction.

The order of the district court relinquishing jurisdiction is affirmed.