

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 46892

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) THIS IS AN UNPUBLISHED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

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Twin Falls County. Hon. Thomas J. Ryan, District Judge.

Order revoking probation, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Jenny C. Swinford, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Jeff Nye, Deputy Attorney General, Boise, for respondent.

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

PER CURIAM

Josh Dillon Stanger pled guilty to failure to register as a sex offender. I.C. §§ 18-8309 and 18-8311. The district court sentenced Stanger to a determinate term of ten years, but suspended the sentence and placed Stanger on probation.

Thereafter, Stanger violated the terms of his probation. The district court revoked Stanger’s probation and ordered execution of the original sentence. However, the district court retained jurisdiction and sent Stanger to participate in the rider program. Following successful completion of his retained jurisdiction, the district court suspended the sentence and placed Stanger on probation. Subsequently, Stanger admitted to violating the terms of the probation,

and the district court revoked probation. The district court ordered execution of Stanger's sentence, but granted Stanger's request to reduce his sentence and modified the sentence to a unified term of ten years, with a minimum period of confinement of seven years. On appeal, Stanger does not challenge the district court's decision to revoke probation, but argues only that the district court should have retained jurisdiction or further reduced his sentence.

We note that the decision to retain jurisdiction over the defendant is a matter within the sound discretion of the district court. *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 primary purpose of a district court retaining jurisdiction is to enable the court to obtain additional information regarding whether the defendant has sufficient rehabilitative potential and is suitable for probation. *State v. Jones*, 141 Idaho 673, 677, 115 P.3d 764, 768 (Ct. App. 2005). Probation is the ultimate goal of retained jurisdiction. *Id.* There can be no abuse of discretion if the district court has sufficient evidence before it to conclude that the defendant is not a suitable candidate for probation. *Id.*

When we review a sentence that is ordered into execution following a period of probation, we will examine the entire record encompassing events before and after the original judgment. *State v. Hanington*, 148 Idaho 26, 29, 218 P.3d 5, 8 (Ct. App. 2009). We base our review upon the facts existing when the sentence was imposed as well as events occurring between the original sentencing and the revocation of probation. *Id.* Thus, this Court will consider the elements of the record before the trial court that are properly made part of the record on appeal and are relevant to the defendant's contention that the trial court should have reduced the sentence upon revocation of probation. *State v. Morgan*, 153 Idaho 618, 621, 288 P.3d 835, 838 (Ct. App. 2012). Applying these standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion.

Therefore, the order revoking probation and directing execution of Stanger's modified sentence is affirmed.