

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 46944

STATE OF IDAHO,)
) Filed: November 27, 2019
 Plaintiff-Respondent,)
) Karel A. Lehrman, Clerk
 v.)
) THIS IS AN UNPUBLISHED
 CHANEL L. McCORD,) 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. Richard D. Greenwood, District Judge.

Order revoking probation, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Brian R. Dickson, Deputy Appellate Public Defender, Boise, for appellant.

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

Before HUSKEY, Judge; LORELLO, Judge;
and BRAILSFORD, Judge

PER CURIAM

Chanel L. McCord pled guilty to possession of methamphetamine, Idaho Code § 37-2732(c). In exchange for her guilty plea, an additional charge was dismissed. The district court imposed a unified sentence of five years with a two-year determinate term, suspended the sentence and placed McCord on supervised probation for five years, with a special condition that she serve 90 days in jail. The district court specified that McCord would have “only a work release and work search option to serve jail time, subject to eligibility determined by the Sheriff. **Defendant must report to serve jail time no later than 5:00 p.m. on February 4, 2019, to be strictly enforced.**” McCord reported to the jail forty-five minutes late and tested positive for

methamphetamine. The State filed a motion for probation violation. The district court entered an order amending McCord's conditions of probation, eliminating the work release and work search provisions. McCord admitted to violating the terms of the probation, and the district court consequently revoked probation, ordered execution of the original sentence and retained jurisdiction. McCord appeals, contending that the district court abused its discretion in revoking probation.

It is within the trial court's discretion to revoke probation if any of the terms and conditions of the probation have been violated. I.C. §§ 19-2603, 20-222; *State v. Beckett*, 122 Idaho 324, 325, 834 P.2d 326, 327 (Ct. App. 1992); *State v. Adams*, 115 Idaho 1053, 1054, 772 P.2d 260, 261 (Ct. App. 1989); *State v. Hass*, 114 Idaho 554, 558, 758 P.2d 713, 717 (Ct. App. 1988). In determining whether to revoke probation a court must examine whether the probation is achieving the goal of rehabilitation and consistent with the protection of society. *State v. Upton*, 127 Idaho 274, 275, 899 P.2d 984, 985 (Ct. App. 1995); *Beckett*, 122 Idaho at 325, 834 P.2d at 327; *Hass*, 114 Idaho at 558, 758 P.2d at 717. The court may, after a probation violation has been established, order that the suspended sentence be executed or, in the alternative, the court is authorized under I.C.R. 35 to reduce the sentence. *Beckett*, 122 Idaho at 325, 834 P.2d at 327; *State v. Marks*, 116 Idaho 976, 977, 783 P.2d 315, 316 (Ct. App. 1989). The court may also order a period of retained jurisdiction. I.C. § 19-2601. A decision to revoke probation will be disturbed on appeal only upon a showing that the trial court abused its discretion. *Beckett*, 122 Idaho at 325, 834 P.2d at 327. In reviewing the propriety of a probation revocation, the focus of the inquiry is the conduct underlying the trial court's decision to revoke probation. *State v. Morgan*, 153 Idaho 618, 621, 288 P.3d 835, 838 (Ct. App. 2012). Thus, this Court will consider the elements of the record before the trial court relevant to the revocation of probation issues which are properly made part of the record on appeal. *Id.*

Applying the foregoing standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion in revoking probation or in ordering execution of McCord's sentence. Therefore, the order revoking probation and directing execution of McCord's previously suspended sentence is affirmed.