

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 47305/47306/47307/47318/47319

STATE OF IDAHO,)	
)	Filed: October 15, 2020
Plaintiff-Respondent,)	
)	Melanie Gagnepain, Clerk
v.)	
)	THIS IS AN UNPUBLISHED
TYLER JOHN STEVENSON,)	OPINION AND SHALL NOT
)	BE CITED AS AUTHORITY
Defendant-Appellant.)	
)	

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Minidoka County and Cassia County. Hon. Jonathan P. Brody, District Judge.

Judgment of conviction and sentence, and orders revoking probation and imposing the underling sentences, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; R. Jonathan Shirts, Deputy Appellate Public Defender, Boise, for appellant.

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

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

PER CURIAM

This appeal includes five consolidated cases. In 2013, in Docket No. 47305, Tyler John Stevenson pleaded guilty to grand theft, Idaho Code § 18-2403(4), and the district court granted Stevenson a withheld judgment and placed him on probation. In 2014, in Docket No. 47318, Stevenson pleaded guilty to grand theft, I.C. § 18-2407(1)(b)(8), and the district court imposed a unified sentence of eight years, with a minimum period of confinement of three years, but suspended the sentence and placed Stevenson on probation. At that time, in Docket No. 47305, the district court revoked Stevenson’s withheld judgment and sentenced him to a unified sentence of eight years, with a minimum period of confinement of three years, to run concurrent

with his sentence in Docket No. 47318. The district court suspended the sentence and placed Stevenson on probation.

Approximately two years later, Stevenson received new criminal charges in Docket No. 47306. Stevenson pleaded guilty to two counts of grand theft by possession of stolen property, I.C. § 18-2403(4). On each count, the district court imposed a unified sentence of fourteen years, with a minimum period of confinement of six years, to run concurrent with each other and with the sentence in Docket No. 47305. New charges were also filed in Docket No. 47319. Stevenson pleaded guilty to grand theft by possession of stolen property, I.C. §§ 18-2403(4) and 18-2407(1), and the district court imposed a unified sentence of seven years, with a minimum period of confinement of two years, to run concurrent with his sentences in Docket Nos. 47305, 47306, and 47318. Stevenson also admitted to violating his probation in Docket Nos. 47305 and 47318, and the district court revoked probation in these cases. In all four cases, the district court retained jurisdiction, and Stevenson was sent to participate in the rider program. Following a successful rider, the district court placed Stevenson on probation.

Shortly thereafter, in Docket No. 47307, Stevenson received new criminal charges. Stevenson pleaded guilty to three counts of grand theft by possession of stolen property, I.C. §§ 18-2403(4) and 18-2407(1)(b)(1) (Counts I, III, and VI), and one count of grand theft, §§ 18-2403(4), 18-2407(1)(b)(1), and 18-2409 (Count IV). In Docket No. 47307, for Count I, the district court imposed a unified sentence of fourteen years, with a minimum period of confinement of seven years, with the sentence to run concurrent with Count IV, but consecutive to all other sentences. For Count III, the district court imposed a unified sentence of fourteen years, with a minimum period of confinement of six years, with the sentence to run concurrent with Stevenson's other sentences. For Count IV, the district court imposed a unified sentence of fourteen years, with a minimum period of confinement of seven years, with the sentence to run concurrent with Count I, but consecutive to his other sentences. For Count VI, the district court imposed a unified sentence of fourteen years, with a minimum period of confinement of six years, with the sentence to run concurrent to his other cases. Stevenson also admitted to violating the terms of his probation in his other four cases. In Stevenson's four older cases, the district court revoked his probation and ordered execution of his underlying sentences with those sentences to run concurrent with each other. Stevenson appeals, contending that the district court

abused its discretion by revoking his probation in four cases and failing to retain jurisdiction in all cases.

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.*

Sentencing is a matter for the trial court's discretion. Both our standard of review and the factors to be considered in evaluating the reasonableness of the sentence are well established and need not be repeated here. *See State v. Hernandez*, 121 Idaho 114, 117-18, 822 P.2d 1011, 1014-15 (Ct. App. 1991); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). That discretion includes the trial court's decision regarding whether a defendant should be placed on probation and whether to retain jurisdiction. I.C. § 19-2601(3), (4); *State v. Reber*, 138 Idaho 275, 278, 61 P.3d 632, 635 (Ct. App. 2002); *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 retaining jurisdiction was not appropriate. We hold

that Stevenson has failed to show that the district court abused its discretion when imposing sentence.

Applying the foregoing standards, and having reviewed the records in these cases, we cannot say that the district court abused its discretion by imposing sentence in Docket No. 47307 or by revoking probation and ordering into execution Stevenson's underlying sentences in his four older cases. Therefore, the judgment of conviction in Docket No. 47307, and the orders revoking probation and executing Stevenson's previously suspended sentences in Docket Nos. 47305, 47306, 47318, and 47319 are affirmed.