

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 47326

STATE OF IDAHO,)
)
 Plaintiff-Respondent,) **Filed: September 10, 2020**
)
 v.) **Melanie Gagnepain, Clerk**
)
 RICHARD KAINOUA BORJA,) **THIS IS AN UNPUBLISHED**
) **OPINION AND SHALL NOT**
) **BE CITED AS AUTHORITY**
 Defendant-Appellant.)
)
)

Appeal from the District Court of the First Judicial District, State of Idaho, Bonner County. Hon. Barbara A. Buchanan, District Judge.

Judgment of conviction and order relinquishing jurisdiction; 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

Richard Kainoua Borja pleaded guilty to felon in possession of a firearm, Idaho Code § 18-3316(1). The district court imposed a unified four-year sentence, with two years determinate. The district court retained jurisdiction, and Borja was sent to participate in the rider program. Soon after, the district court received notice from the Department of Correction that Borja had been involved in an altercation. Following a hearing, the district court relinquished jurisdiction. Borja appeals, claiming that the district court erred by retaining jurisdiction instead of placing Borja on probation and thereafter, abused its discretion by relinquishing jurisdiction and executing the underlying sentence.

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). We note that the decision to place a defendant on probation or whether, instead, to retain jurisdiction is a matter within the sound discretion of the district court and will not be overturned on appeal absent an abuse of that discretion. 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). That discretion also includes the trial court's decision to place a defendant on probation or whether, instead, to relinquish jurisdiction over the defendant. *State v. Hood*, 102 Idaho 711, 712, 639 P.2d 9, 10 (1981); *Lee*, 117 Idaho at 205-06, 786 P.2d at 596-97.

The record in this case shows that the district court properly considered the information before it at the time of sentencing and determined that probation was not appropriate. Consequently, the district court did not err when it declined to place Borja on probation and instead retained jurisdiction. Additionally, in light of the information regarding Borja's behavior during the period of retained jurisdiction, Borja has failed to show that the district court abused its discretion by subsequently relinquishing jurisdiction.

The judgment of conviction and the order of the district court relinquishing jurisdiction and executing Borja's sentence are affirmed.