

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 47504/47505

STATE OF IDAHO, )  
 )  
 ) **Filed: April 29, 2020**  
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 ) **Karel A. Lehrman, Clerk**  
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 ) **THIS IS AN UNPUBLISHED**  
 ) **OPINION AND SHALL NOT**  
 ) **BE CITED AS AUTHORITY**  
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Appeal from the District Court of the Fifth Judicial District, State of Idaho, Twin Falls County. Hon. John K. Butler, District Judge.

Orders 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; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

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

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PER CURIAM

In docket number 47504, James Darrin Clopton pled guilty to possession of a controlled substance. Idaho Code §§ 37-2732(c)(1), 37-2707(d). The district court sentenced Clopton to a unified term of seven years with four years determinate, suspended the sentence, and placed Clopton on supervised probation for four years. In docket number 47505, Clopton pled guilty to possession of a controlled substance (I.C. §§ 37-2732(c)(1), 37-2707(d)), and the district court imposed a unified sentence of seven years with four years determinate, suspended the sentence, and placed Clopton on supervised probation for five years. Subsequently, Clopton admitted to violating the terms of the probation, and the district court continued the disposition hearing to allow Clopton to participate in an inpatient treatment facility. At the disposition hearing the district

court revoked Clopton's probation, ordered execution of the original sentences, and retained jurisdiction. Clopton appeals, contending that the district court abused its discretion by revoking his probation and retaining jurisdiction rather than reinstating his 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 by revoking probation and retaining jurisdiction. Therefore, the orders revoking probation and directing execution of Clopton's previously suspended sentences are affirmed.