

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 47541

STATE OF IDAHO,)
) Filed: July 22, 2020
Plaintiff-Respondent,)
) Melanie Gagnepain, Clerk
v.)
) THIS IS AN UNPUBLISHED
CANTE SOL RIVER OWEN-) OPINION AND SHALL NOT
STREUFERT,) BE CITED AS AUTHORITY
)
Defendant-Appellant.)
_____)

Appeal from the District Court of the First Judicial District, State of Idaho, Kootenai County. Hon. John T. Mitchell, District Judge.

Order revoking probation, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Kimberly A. Coster, Deputy Appellate Public Defender, Boise, for appellant.

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

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

PER CURIAM

Cante Sol River Owen-Streufert pled guilty to possession of a controlled substance (heroin). Idaho Code § 37-2732(c)(1). The district court sentenced Owen-Streufert to a unified term of seven years with three years determinate, suspended the sentence, and placed Owen-Streufert on probation for a period of five years. Subsequently, Owen-Streufert admitted to violating the terms of the probation, and the district court consequently revoked probation, ordered execution of the original sentence, and retained jurisdiction. Following the period of retained jurisdiction, the district court again placed Owen-Streufert on probation and imposed probation conditions that included participating in Good Samaritan programing and housing.

Three months later, Owen-Streufert admitted to violating the terms of his probation, but suggested “[h]e was confused whether he could live there because of his beliefs.” His attorney told the district court that he now understood “he can live at [Good Samaritan] as long as he doesn’t talk about his beliefs.” The district court continued Owen-Streufert’s probation on the same terms and conditions originally imposed. Shortly thereafter, Owen-Streufert again admitted to violating the terms of his probation. The district court revoked Owen-Streufert’s probation and executed the originally imposed sentence. Owen-Streufert 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. Therefore, the order revoking probation and directing execution of Owen-Streufert’s previously suspended sentence is affirmed.