

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 47552 & 47585

STATE OF IDAHO,)
) **Filed: June 8, 2020**
) **Plaintiff-Respondent,**)
) **Melanie Gagnepain, Clerk**
v.)
) **THIS IS AN UNPUBLISHED**
) **OPINION AND SHALL NOT**
) **BE CITED AS AUTHORITY**
) **ROBERTO MANUEL ROJAS,**)
) **Defendant-Appellant.**)
)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Steven J. Hippler, District Judge.

Judgment of conviction and unified sentence of five years, with a minimum period of confinement of two years, for felony eluding a peace officer, affirmed; appeal from judgment of conviction and sentence for misdemeanor driving under the influence, dismissed.

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

In Docket No. 47552, Roberto Manuel Rojas pled guilty to felony eluding a peace officer. I.C. § 49-1404(a). In Docket No. 47585, Rojas pled guilty to misdemeanor driving under the influence, DUI. I.C. § 18-8004. In exchange for his guilty pleas, an additional charge was dismissed and the State agreed not to pursue an allegation that Rojas is a persistent violator. The district court sentenced Rojas to a unified term of five years, with a minimum period of

confinement of two years, for felony eluding a peace officer and a concurrent term of 180 days (with credit for 175 days served) for misdemeanor DUI. Rojas appeals.

In Docket No. 47552, Rojas argues that his felony eluding an officer sentence is excessive and, alternatively, asserts that the district court should have retained jurisdiction. 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). When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 726, 170 P.3d 387, 391 (2007).

We note that the decision to place a defendant on probation or whether, instead, to relinquish jurisdiction over the defendant is a matter within the sound discretion of the district court and will not be overturned on appeal absent an abuse of that discretion. *State v. Hood*, 102 Idaho 711, 712, 639 P.2d 9, 10 (1981); *State v. Lee*, 117 Idaho 203, 205-06, 786 P.2d 594, 596-97 (Ct. App. 1990). The primary purpose of a district court retaining jurisdiction is to enable the court to obtain additional information regarding whether the defendant has sufficient rehabilitative potential and is suitable for probation. *State v. Jones*, 141 Idaho 673, 677, 115 P.3d 764, 768 (Ct. App. 2005). Probation is the ultimate goal of retained jurisdiction. *Id.* There can be no abuse of discretion if the district court has sufficient evidence before it to conclude that the defendant is not a suitable candidate for probation. *Id.* Applying these standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion.

In Docket No. 47585, Rojas filed a notice of appeal with regard to his judgment of conviction and sentence for DUI. However, in his briefing on appeal, he only mentions this judgment and sentence. Rojas provides no argument or authority with regard to this sentence. A party waives an issue on appeal if either authority or argument is lacking. *State v. Zichko*, 129 Idaho 259, 263, 923 P.2d 966, 970 (1996). In addition, Rojas was sentenced to a term of 180 days, with credit served of 175 days and has completed his sentence.

A case becomes moot when the issues presented are no longer live or the defendant lacks a legally cognizable interest in the outcome. *Murphy v. Hunt*, 455 U.S. 478, 481 (1982);

Bradshaw v. State, 120 Idaho 429, 432, 816 P.2d 986, 989 (1991). Even where a question is moot, there are three exceptions to the mootness doctrine: (1) when there is the possibility of collateral legal consequences imposed on the person raising the issue; (2) when the challenged conduct is likely to evade judicial review and thus is capable of repetition; and (3) when an otherwise moot issue raises concerns of substantial public interest. *State v. Barclay*, 149 Idaho 6, 8, 232 P.3d 327, 329 (2010). Accordingly, Rojas's appeal with regard to his DUI sentence is moot.

Therefore, Rojas's judgment of conviction and sentence for felony eluding a peace officer in Docket No. 47552 is affirmed and his appeal from his judgment of conviction and sentence for DUI in Docket No. 47585 is dismissed.