

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 47842, 47843 & 47844

STATE OF IDAHO,	)	
	)	<b>Filed: February 17, 2021</b>
<b>Plaintiff-Respondent,</b>	)	
	)	<b>Melanie Gagnepain, Clerk</b>
v.	)	
	)	<b>THIS IS AN UNPUBLISHED</b>
<b>BAILEE KAYE WILLIAMS-HARDING,</b>	)	<b>OPINION AND SHALL NOT</b>
	)	<b>BE CITED AS AUTHORITY</b>
<b>Defendant-Appellant.</b>	)	
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Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Deborah A. Bail, District Judge.

Orders revoking probation and ordering execution of the suspended sentences, judgment of conviction and sentence, and orders denying Idaho Criminal Rule 35 motions, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Sally J. Cooley, 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

Bailee Kaye Williams-Harding has three cases in this consolidated appeal. In 2017, in Docket No. 47842, Williams-Harding pleaded guilty to possession of controlled substance, heroin, Idaho Code § 37-2732(c). The district court sentenced Williams-Harding to a unified seven-year sentence, with two years determinate, suspended the sentence, and placed Williams-Harding on probation. In 2018, in Docket No. 47843, Williams-Harding pleaded guilty to possession of a controlled substance, heroin, I.C. § 37-2732(c), and the district court imposed a unified seven-year sentence, with three years determinate, to run concurrently with the other sentence. This new

conviction resulted in the State filing a probation violation allegation in Docket No. 47842, which Williams-Harding admitted. The district court revoked her probation and retained jurisdiction in both cases. After the period of retained jurisdiction, the district court suspended the sentences and placed Williams-Harding on probation.

Less than a year later, in 2019, in Docket No. 47844, Williams-Harding pleaded guilty to unlawful possession of a firearm, I.C. § 18-3316, and the district court imposed a unified five-year sentence, with two years determinate, to run concurrently with her first two cases and ordered execution of the sentence. The new conviction resulted in the State filing probation violation allegations in both prior cases, which Williams-Harding admitted. The district court revoked probation in Docket Nos. 47842 and 47843 and ordered execution of the previously suspended sentences. Williams-Harding filed an Idaho Criminal Rule 35 in each case, which the district court denied.

Williams-Harding appeals from the orders revoking probation in Docket Nos. 47842 and 47843, the judgment of conviction in Docket No. 47844, and the orders denying her I.C.R. 35 motions in all three of her cases. Williams-Harding contends that the district court abused its discretion in revoking probation in Docket Nos. 47842 and 47843, imposing an excessive sentence in Docket No. 47844, and denying her I.C.R. 35 motions in all three 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). 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 also a matter for the trial court's discretion. Both our standard of review and the factors to be considered in evaluating the reasonableness of a 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).

Last, a motion for reduction of sentence under I.C.R. 35 is essentially a plea for leniency, addressed to the sound discretion of the court. *State v. Knighton*, 143 Idaho 318, 319, 144 P.3d 23, 24 (2006); *State v. Allbee*, 115 Idaho 845, 846, 771 P.2d 66, 67 (Ct. App. 1989). In presenting an I.C.R. 35 motion, the defendant must show that the sentence is excessive in light of new or additional information subsequently provided to the district court in support of the motion. *State v. Huffman*, 144 Idaho 201, 203, 159 P.3d 838, 840 (2007).

Applying the foregoing standards, and having reviewed the records in these cases, the district court did not abuse its discretion in revoking probation and ordering execution of Williams-Harding's previously suspended sentences in Docket Nos. 47842 and 47843, in imposing sentence in Docket No. 47844, or in denying Williams-Harding's I.C.R. 35 motions in all three cases. Williams-Harding continued to accumulate felony convictions despite having been placed on probation and on a period of retained jurisdiction. Similarly, she has not established the district court erred in denying her Rule 35 motions. Therefore, the orders revoking probation and ordering execution of Williams-Harding's previously suspended sentences in Docket Nos. 47842 and 47843, the judgment of conviction and sentence in Docket No. 47844, and the orders denying Williams-Harding's I.C.R. 35 motions, are affirmed.