

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 47997

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 ) **THIS IS AN UNPUBLISHED**  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

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Appeal from the District Court of the Sixth Judicial District, State of Idaho, Bannock County. Hon. Robert C. Naftz, District Judge.

Order relinquishing jurisdiction, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Kimberly A. Coster, 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 GRATTON, Judge; LORELLO, Judge;  
and BRAILSFORD, Judge

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PER CURIAM

Timothy Jo Fernandez pled guilty to first degree stalking. I.C. § 18-7905. The district court sentenced Fernandez to a unified term of five years, with a minimum period of confinement of two years. Fernandez filed an I.C.R. 35 motion, which the district court denied. The district court retained jurisdiction, and Fernandez was sent to participate in the rider program. Prior to completion of his rider, the district court relinquished jurisdiction. Fernandez appeals, claiming that the district court erred by refusing to grant probation.

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 record in this case shows that the district court properly considered the information before it and determined that probation was not appropriate. We hold that Fernandez has failed to show that the district court abused its discretion in relinquishing jurisdiction.

The order of the district court relinquishing jurisdiction is affirmed.