

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 48083/48084

STATE OF IDAHO,)
) Filed: April 29, 2021
Plaintiff-Respondent,)
) Melanie Gagnepain, Clerk
v.)
) THIS IS AN UNPUBLISHED
TROY ALLEN BACA,) OPINION AND SHALL NOT
) BE CITED AS AUTHORITY
Defendant-Appellant.)
_____)

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Twin Falls County. Hon. Eric J. Wildman, District Judge.

Order revoking probation, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Andrea W. Reynolds, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Kacey L. Jones, Deputy Attorney General, Boise, for respondent.

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

PER CURIAM

These cases were consolidated for purposes of this appeal. In Docket No. 48083, Troy Allen Baca pled guilty to possession of a controlled substance. Idaho Code § 37-2732(c)(1). In Docket No. 48084, Baca pled guilty to two counts of felony injury to a child, I.C. § 18-1501, and one count of witness intimidation, I.C. § 18-2604. The district court sentenced Baca to a unified term of five years with three years determinate for the possession of a controlled substance. The district court sentenced Baca to a unified term of ten years with five years determinate on each count of felony injury to a child and a consecutive indeterminate five years for the witness intimidation charge. The sentences in these two cases were to run concurrently with each other, and the district court retained jurisdiction. Following the period of retained jurisdiction, the

district court suspended the sentences and placed Baca on probation for a period of four years. Subsequently, Baca admitted to violating the terms of the probation, and the district court consequently revoked probation and ordered execution of the original sentences. Baca filed an Idaho Criminal Rule 35 motion for reduction of his sentences. The district court denied his motion with respect to the possession of a controlled substance case, but reduced Baca's sentences on each of the injury to child counts to ten years with four years determinate. Baca appeals, contending that the district court abused its discretion in revoking probation since the probation violations were minor and did not indicate he could not be successful on probation. Baca asserts that the district court should have continued his probation.

It is within the trial court's discretion to revoke probation if any of the terms and conditions of the probation has 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. Therefore, the order revoking probation and directing execution of Baca's previously suspended sentences are affirmed.