

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 48176

STATE OF IDAHO, )  
 )  
 ) **Filed: May 20, 2021**  
 )  
 ) **Melanie Gagnepain, Clerk**  
 )  
 ) **THIS IS AN UNPUBLISHED**  
 ) **OPINION AND SHALL NOT**  
 ) **BE CITED AS AUTHORITY**  
 )  
 )  
 )  
 )  
 )  
 )

---

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; Kiley A. Heffner, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; John C. McKinney, Deputy Attorney General, Boise, for respondent.

---

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

---

PER CURIAM

Steven Paul Maxe pled guilty to battery on a peace officer. Idaho Code § 18-903, 18-915(3). The district court sentenced Maxe to a unified term of five years with one and one-half years determinate, and retained jurisdiction. Following the period of retained jurisdiction, the district court suspended the sentence, and placed Maxe on probation for two and one-half years. Subsequently, Maxe admitted to violating several terms of the probation, and the district court consequently revoked probation and ordered execution of the original sentence. Maxe appeals, contending that the district court abused its discretion by revoking probation instead of reinstating probation or, in the alternative, retaining jurisdiction.

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 or in ordering execution of Maxe's sentence. Therefore, the order revoking probation and directing execution of Maxe's previously suspended sentence is affirmed.