

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 48530

STATE OF IDAHO,)	
)	Filed: September 14, 2021
Plaintiff-Respondent,)	
)	Melanie Gagnepain, Clerk
v.)	
)	THIS IS AN UNPUBLISHED
BRETT THOMAS SOUTHWICK,)	OPINION AND SHALL NOT
)	BE CITED AS AUTHORITY
Defendant-Appellant.)	
_____)	

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Cassia County. Hon. Michael P. Tribe, District Judge.

Order revoking probation and ordering execution of the previously suspended sentences, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Kiley A. Heffner, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Justin R. Porter, Deputy Attorney General, Boise, for respondent.

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

PER CURIAM

Brett Thomas Southwick pleaded guilty to one count of felony domestic violence, Idaho Code § 18-918(a)(2), and one count of felony injury to child, I.C. § 18-1501(3). For each of the charges, the district court sentenced Southwick to a unified term of six years, with one and one-half years determinate, with the sentences running consecutively to each other. The district court retained jurisdiction and after Southwick completed the period of retained jurisdiction, he was placed on probation.

Thereafter, Southwick admitted to violating the terms of his probation, and the district court continued Southwick’s probation. Just a few months later, Southwick again admitted violating the

terms of his probation. As a result, the district court revoked probation and ordered into execution the previously suspended sentences. Southwick timely appealed.

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). 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 either in revoking probation or in ordering execution of Southwick's previously suspended sentences. Therefore, the order revoking probation and ordering into execution Southwick's previously suspended sentences is affirmed.