

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 48534/48547

STATE OF IDAHO,)
)
 Plaintiff-Respondent,) **Filed: December 7, 2021**
)
 v.) **Melanie Gagnepain, Clerk**
)
 DUSTIN MICHAEL LAWSON,) **THIS IS AN UNPUBLISHED**
) **OPINION AND SHALL NOT**
) **BE CITED AS AUTHORITY**
 Defendant-Appellant.)
)
)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Patrick J. Miller, District Judge.

Order revoking probation and directing execution of previously suspended sentence and judgment of conviction and sentence, 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.

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

PER CURIAM

This appeal involves two consolidated cases. In Docket No. 48534, Dustin Michael Lawson pleaded guilty to possession of a controlled substance, Idaho Code § 37-2732(c). The district court imposed a unified seven-year sentence, with a minimum period of incarceration of two years, suspended the sentence, and placed Lawson on probation. While on probation, in Docket No. 48547, Lawson was charged with possession of a controlled substance, I.C. § 37-2732(c). Subsequently, in Docket No. 48534, Lawson admitted to violating the terms of his probation and the district court revoked probation, ordered execution of the previously suspended sentence, and retained jurisdiction. For the new charge of possession of a controlled substance in

Docket No. 48547, the district court imposed a unified five-year sentence, with a minimum period of incarceration of one year, and retained jurisdiction. This sentence was ordered to run concurrently with the sentence in Docket No. 48534. On appeal, Lawson asserts that in Docket No. 48534, the district court abused its discretion by revoking his probation and ordering execution of the previously suspended sentence. In Docket No. 48547, Lawson asserts the district court abused its discretion by imposing an excessive sentence.

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(4). 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.*

Next, sentencing is a matter for the trial court's discretion. Both our standard of review and the factors to be considered in evaluating the reasonableness of the 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). Our role is limited to determining whether

reasonable minds could reach the same conclusion as the district court. *State v. Biggs*, 168 Idaho 112, 116, 480 P.3d 150, 154 (Ct. App. 2020).

Based on a review of the records in these cases, the district court's order revoking probation and directing execution of Lawson's previously suspended sentence and Lawson's judgment of conviction and sentence are affirmed.