

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 48553/48554/48555/48556/48557

STATE OF IDAHO,)
)
 Plaintiff-Respondent,) **Filed: November 10, 2021**
)
 v.) **Melanie Gagnepain, Clerk**
) **THIS IS AN UNPUBLISHED**
 STANLEY CLARK RADFORD,) **OPINION AND SHALL NOT**
) **BE CITED AS AUTHORITY**
 Defendant-Appellant.)
)
 _____)

Appeal from the District Court of the First Judicial District, State of Idaho, Shoshone County. Hon. Scott L. Wayman, District Judge.

Order revoking probation and ordering execution of previously suspended sentences in three cases, affirmed; judgments of conviction and sentences for possession of a controlled substance in two cases, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Ben P. McGreevy, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Mark W. Olson, Deputy Attorney General, Boise, for respondent.

Before GRATTON, Judge; LORELLO, Judge;
and BRAILSFORD, Judge

PER CURIAM

In these consolidated appeals, Stanley Clark Radford entered into a global plea agreement covering five cases. Pursuant to the plea agreement, Radford admitted to violating his probation in three of the cases and pled guilty to possession of a controlled substance, Idaho Code § 37-2732(c)(1) in the other two cases. The district court revoked Radford’s probation and executed the underlying sentences in the three probation cases (Docket Nos. 48553, 48554, and 48555), and imposed concurrent unified five-year sentences with two years determinate in each of the two possession cases (Docket Nos. 48556 and 48557). Radford asserts that the district court abused its discretion when it revoked his probation and executed his underlying sentences in the probation

cases, and when it executed his sentences in the possession cases rather than retaining jurisdiction.

As an initial matter, we note that the parties disagree on whether Radford validly waived his right to appeal in Docket Nos. 48556 and 48557. Radford contends “the State will not be able to show that a valid, enforceable appeal waiver exists in these cases.” The State responds that the written pretrial settlement offer, signed by Radford and his attorney, demonstrate a valid waiver and that other aspects of the record support this conclusion. Given the global resolution of all five cases, and our ultimate conclusion explained below that Radford has failed to show the district court abused its sentencing discretion, we decline to address the validity of Radford’s appeal waiver in Docket Nos. 48556 and 48557.

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.*

When we review a sentence that is ordered into execution following a period of probation, we will examine the entire record encompassing events before and after the original judgment. *State v. Hanington*, 148 Idaho 26, 29, 218 P.3d 5, 8 (Ct. App. 2009). We base our

review upon the facts existing when the sentence was imposed as well as events occurring between the original sentencing and the revocation of probation. *Id.* Thus, this Court will consider the elements of the record before the trial court that are properly made part of the record on appeal and are relevant to the defendant's contention that the trial court should have reduced the sentence sua sponte upon revocation of probation. *State v. Morgan*, 153 Idaho 618, 621, 288 P.3d 835, 838 (Ct. App. 2012).

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).

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, imposing sentence in the possession cases, or in ordering execution of Radford's sentences without retaining jurisdiction. Therefore, the order revoking probation in the three probation cases and the judgments of conviction and sentences in the two possession cases are affirmed.