

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 48754/48755

STATE OF IDAHO, )  
 )  
 ) **Filed: February 1, 2022**  
 )  
 ) **Plaintiff-Respondent,** )  
 ) **Melanie Gagnepain, Clerk**  
 )  
 ) **v.** )  
 ) **THIS IS AN UNPUBLISHED**  
 ) **BRIAN SCOTT ROBSON,** ) **OPINION AND SHALL NOT**  
 ) **BE CITED AS AUTHORITY**  
 ) **Defendant-Appellant.** )  
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Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Deborah A. Bail, District Judge.

Order revoking probation and executing unified sentence of seven years with two years determinate for possession of methamphetamine, affirmed; judgment of conviction and concurrent, unified sentence of seven years with two years determinate for grand theft, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Jacob L. Westerfield, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

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

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PER CURIAM

These cases are consolidated on appeal. In 2016, Brian Scott Robson pled guilty to felony possession of methamphetamine, Idaho Code § 37-2732(c) (2016 case). The district court imposed a unified sentence of seven years with two years determinate, suspended the sentence and placed Robson on probation. Subsequently, Robson admitted to violating the terms of the probation, and the district court consequently revoked probation and retained jurisdiction. Upon Robson’s completion of retained jurisdiction, the district entered an order reinstating probation.

In 2020, following multiple probation violations and attempted treatment programs, Robson pled guilty to one count of attempted grand theft, I.C. §§ 18-2403(1), 18-2407(1)(b), 18-2409, 18-306 (2020 case). The district court revoked Robson's probation in the 2016 case and ordered execution of the original sentence. In the 2020 case, the district court imposed a unified sentence of seven years with two years determinate to run concurrently with Robson's sentence in the 2016 case. Robson appeals, contending that the district court abused its discretion in revoking probation and ordering execution of his sentence in the 2016 case and that the sentence in the 2020 case is excessive.

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.*

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 either in revoking probation and ordering execution of Robson's sentence in the 2016 case or in imposing sentence in the 2020 case. Therefore, the order revoking probation and directing execution of Robson's previously suspended sentence in the 2016 case and the judgment of conviction and sentence in the 2020 case are affirmed.