

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 49148/49149

STATE OF IDAHO, )  
 )  
 Plaintiff-Respondent, ) **Filed: September 26, 2022**  
 )  
 v. ) **Melanie Gagnepain, Clerk**  
 )  
 TORI MARIE HENSLEY, ) **THIS IS AN UNPUBLISHED**  
 ) **OPINION AND SHALL NOT**  
 ) **BE CITED AS AUTHORITY**  
 Defendant-Appellant. )  
 )  
 \_\_\_\_\_ )

Appeal from the District Court of the Sixth Judicial District, State of Idaho, Bannock County. Hon. Robert C. Naftz, District Judge.

Orders revoking probation and executing previously suspended sentences, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Kimberly A. Coster, 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 GRATTON, Judge; HUSKEY, Judge;  
and BRAILSFORD, Judge  
\_\_\_\_\_

PER CURIAM

Tori Marie Hensley has two cases in this consolidated appeal. In Docket No. 49148, Hensley pleaded guilty to possession of a controlled substance, Idaho Code § 37-2732(c), and was accepted into the Diversion Treatment Program. Later, Hensley was discharged and the district court found her noncompliant with the program. The district court imposed a unified sentence of five years, with a minimum period of incarceration of two years, and retained jurisdiction. At the same time, in Docket No. 49149, Hensley entered a guilty plea to possession of a controlled substance, I.C. § 37-2732(c)(1), and to a sentencing enhancement, I.C. § 37-2739. The district court imposed a unified sentence of six years, with a minimum period of incarceration of three

years. The district court retained jurisdiction in both cases. Following the period of retained jurisdiction, the district court placed Hensley on a period of probation. Subsequently, Hensley admitted to violating the terms of the probation in each case, and the district court consequently revoked probation and ordered execution of the original sentences. Hensley appeals, contending that the district court abused its discretion in revoking probation in each case.

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(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.*

Applying the foregoing standards, and having reviewed the record in these cases, we cannot say that the district court abused its discretion in revoking probation. Therefore, the orders revoking probation and directing execution of Hensley's previously suspended sentences are affirmed.