

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 49194

STATE OF IDAHO,)
)
 Plaintiff-Respondent,)
)
 v.)
)
 DALE L. HEMERICK,)
)
 Defendant-Appellant.)
)
)

Appeal from the District Court of the Second Judicial District, State of Idaho, Idaho County. Hon. Gregory FitzMaurice, District Judge.

Order relinquishing jurisdiction, 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.

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

PER CURIAM

Dale L. Hemerick pled guilty to aggravated assault. I.C. § 18-905. In exchange for his guilty plea, an additional charge was dismissed. The district court sentenced Hemerick to a unified term of five years, with a minimum period of confinement of two years. The district court retained jurisdiction, and Hemerick was sent to participate in the rider program.

Approximately five months into his rider program, the North Idaho Correctional Institution recommended that the district court relinquish jurisdiction. The district court held a hearing and relinquished jurisdiction. The district court then sua sponte reduced Hemerick's sentence to a

unified term of four years, with a minimum period of confinement of one and one-half years. Hemerick appeals, claiming that the district court erred by refusing to grant probation.

The decision to place a defendant on probation or whether, instead, to relinquish jurisdiction over the defendant is a matter within the sound discretion of the district court and will not be overturned on appeal absent an abuse of that discretion. *State v. Hood*, 102 Idaho 711, 712, 639 P.2d 9, 10 (1981); *State v. Lee*, 117 Idaho 203, 205-06, 786 P.2d 594, 596-97 (Ct. App. 1990). The record in this case shows that the district court properly considered the information before it and determined that probation was not appropriate. We hold that Hemerick has failed to show that the district court abused its discretion in relinquishing jurisdiction. Therefore, the district court's order relinquishing jurisdiction is affirmed.