

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 49276/49277

STATE OF IDAHO,)
)
 Plaintiff-Respondent,) **Filed: September 12, 2022**
)
 v.) **Melanie Gagnepain, Clerk**
)
 ADAM JON BARTH,) **THIS IS AN UNPUBLISHED**
) **OPINION AND SHALL NOT**
) **BE CITED AS AUTHORITY**
 Defendant-Appellant.)
)
 _____)

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Twin Falls County. Hon. Benjamin J. Cluff, District Judge.

Orders relinquishing jurisdiction, affirmed.

Eric D. Fredericksen, State 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

In Docket No. 49276, Adam Jon Barth pled guilty to two counts of unlawful possession of a firearm, Idaho Code § 18-3316(1). The district court sentenced Barth on count one to a unified term of five years with three years determinate and a consecutive three-year indeterminate term on count two and retained jurisdiction.

In Docket No. 49277, Barth pled guilty to intimidating, impeding, influencing, or preventing the attendance of a witness, I.C. § 18-2604. The district court sentenced Barth to a unified term of two years with one year determinate to run consecutive to the sentences in Docket No. 49276 and retained jurisdiction.

Subsequently, the district court relinquished jurisdiction and executed the underlying sentences in both cases. Barth filed an Idaho Criminal Rule 35 motion in Docket No. 49277, which was denied by the district court. Barth appeals asserting that the district court abused its discretion by relinquishing jurisdiction.

We note that 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 Barth has failed to show that the district court abused its discretion in relinquishing jurisdiction.

The orders of the district court relinquishing jurisdiction are affirmed.