

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 49292/49293

STATE OF IDAHO,)	
)	Filed: February 27, 2023
Plaintiff-Respondent,)	
)	Melanie Gagnepain, Clerk
v.)	
)	THIS IS AN UNPUBLISHED
ABEL ISAIHAH GARCIA,)	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. Javier Gabiola, District Judge.

Order revoking probation and executing the previously suspended sentence, and judgment of conviction and unified ten-year sentence, with four years determinate, for felony domestic battery, affirmed.

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

Hon. Raúl R. Labrador, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

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

PER CURIAM

This appeal involves two consolidated cases. In Docket No. 49292, Abel Isaiah Garcia pled guilty to felony malicious injury to property, Idaho Code § 18-7001. The district court imposed a unified sentence of five years, with three years determinate, but after a period of retained jurisdiction, suspended the sentence and placed Garcia on probation. Subsequently, Garcia violated the terms of his probation by, in part, receiving new criminal charges in Docket No. 49293. Garcia admitted to violating the terms of the probation in Docket No. 49292, and pled guilty to

felony domestic battery, I.C. § 18-918(2), in Docket No. 49293. At the consolidated disposition hearing and sentencing hearing, Garcia asked the district court to retain jurisdiction in both cases.

In Docket No. 49292, the district court revoked probation and ordered execution of the previously suspended sentence. In Docket No. 49293, the district court imposed a unified sentence of ten years, with six years determinate, to run concurrently with his sentence in Docket No. 49292. On appeal, in Docket No. 49292, Garcia does not challenge the district court's decision to revoke probation, but argues only that the district court abused its discretion by executing his underlying sentence without retaining jurisdiction. In Docket No. 49293, Garcia asserts the district court abused its discretion by imposing an excessive sentence.

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 a 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).

Further, 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). 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 retained jurisdiction upon revocation of probation. *Morgan*, 153 Idaho at 621, 288 P.3d at 838.

Applying the foregoing standards, and having reviewed the records in these cases, we cannot say that the district court abused its discretion in Docket No. 49292 by revoking probation and executing the previously suspended sentence without retaining jurisdiction. Similarly, the

district court did not abuse its sentencing discretion in Docket No. 49293. Therefore, the order revoking probation and directing execution of Garcia's previously suspended sentence in Docket No. 49292 and the judgment of conviction and sentence in Docket No. 49293 are affirmed.