

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 49391

STATE OF IDAHO,)
)
 Plaintiff-Respondent,) **Filed: January 12, 2023**
)
 v.) **Melanie Gagnepain, Clerk**
)
 DAVID Z. SANGBERG,) **THIS IS AN UNPUBLISHED**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, Franklin County. Hon. Mitchell W. Brown, District Judge.

Order revoking probation and executing the previously suspended sentence, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Emily M. Joyce, 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; HUSKEY, Judge;
and BRAILSFORD, Judge

PER CURIAM

In 2011, David Z. Sangberg pled guilty to three counts of burglary, Idaho Code § 18-1401. The district court imposed concurrent unified sentences of seven years, with a minimum period of incarceration of four years, suspended the sentences and placed Sangberg on a term of probation. Between 2011 and 2019, several different reports of violation were filed; each time Sandberg admitted to violating the terms of probation and the district court continued Sandberg’s probation. After the second report of violation was filed in 2019, Sangberg admitted to violating the terms of his probation, and the district court revoked probation and retained jurisdiction. After the period of retained jurisdiction, the district court suspended the sentence and placed Sangberg on

probation. Subsequently, in 2021, Sangberg admitted to violating the terms of his probation, and the district court revoked probation and ordered execution of the original sentences. Sangberg appeals, contending that the district court abused its discretion by revoking probation without again retaining jurisdiction.

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). Also, the court may also order a period of retained jurisdiction. I.C. § 19-2601(4).

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, the record in this case shows that the district court properly considered the information before it and determined that retaining jurisdiction was not appropriate; thus, the district court did not abuse its discretion in revoking Sangberg's probation and ordering execution of Sangberg's sentences without retaining jurisdiction. Therefore, the order revoking probation and directing execution of Sangberg's previously suspended sentences is affirmed.