

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 49665

STATE OF IDAHO,)
) Filed: November 18, 2022
Plaintiff-Respondent,)
) Melanie Gagnepain, Clerk
v.)
) THIS IS AN UNPUBLISHED
MANUEL SOLOMON CORTES,) OPINION AND SHALL NOT
) BE CITED AS AUTHORITY
Defendant-Appellant.)
_____)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Lynn G. Norton, District Judge.

Order revoking probation and ordering execution of sentence without modification, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Jenny C. Swinford, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

Before GRATTON, Judge; HUSKEY, Judge;
and BRAILSFORD, Judge

PER CURIAM

Manuel Solomon Cortes was found guilty of aggravated battery with a deadly weapon or instrument, Idaho Code §§ 18-903(a), 18-907(a)(b), and 19-2520. The district court imposed a unified term of fifteen years with two years determinate, suspended the sentence, and placed Cortes on probation for a period of fifteen years. Subsequently, Cortes was found to have violated the terms of the probation, and the district court consequently revoked probation and retained jurisdiction. Following the period of retained jurisdiction, the district court reinstated Cortes’ probation. One year later, Cortes was found to have violated his probation and the district court revoked his probation and again retained jurisdiction. After the second period of

retained jurisdiction, the district court reinstated Cortes' probation. Several months later, Cortes admitted to violating his probation. The district court revoked Cortes' probation, executed the underlying sentence of fifteen years with two years determinate, and credited Cortes with days served. On appeal, Cortes argues that the district court abused its discretion by declining to retain jurisdiction or reduce his sentence upon revocation.

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 reduced the sentence sua sponte upon revocation of probation. *State v. Morgan*, 153 Idaho 618, 621, 288 P.3d 835, 838 (Ct. App. 2012). Applying these standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion.

Therefore, the order revoking probation and directing execution of Cortes' previously suspended sentence without modification is affirmed.