

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 50123 & 50124

STATE OF IDAHO,)
) **Filed: April 24, 2023**
) **Plaintiff-Respondent,**)
) **Melanie Gagnepain, Clerk**
 v.)
) **THIS IS AN UNPUBLISHED**
 JENNIE L. GIESEN,) **OPINION AND SHALL NOT**
) **BE CITED AS AUTHORITY**
) **Defendant-Appellant.**)
)

Appeal from the District Court of the First Judicial District, State of Idaho, Shoshone County. Hon. Barbara Duggan, District Judge.

Orders revoking probation, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Jenny C. Swinford, 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 BRAILSFORD, Judge

PER CURIAM

In these consolidated cases, Jennie L. Giesen pled guilty to two counts of possession of a controlled substance. I.C. § 37-2732(c)(1). In exchange for her guilty pleas, additional charges were dismissed. The district court sentenced Giesen to concurrent, unified terms of three years, with minimum periods of confinement of one and one-half years; suspended the sentences; and placed Giesen on probation. Subsequently, Giesen admitted to violating the terms of the probation, and the district court consequently revoked probation and ordered execution of the original sentences. However, the district court retained jurisdiction and sent Giesen to participate in the rider program. Giesen filed I.C.R. 35 motions for reduction of her sentences, which the district

court denied. Giesen appeals, contending that the district court abused its discretion in revoking probation.

It is within the trial court's discretion to revoke probation if any of the terms and conditions of the probation have 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). The court may also order a period of retained jurisdiction. *State v. Urrabazo*, 150 Idaho 158, 162, 244 P.3d 1244, 1248 (2010). A decision to revoke probation will be disturbed on appeal only upon a showing that the trial court abused its discretion. *Beckett*, 122 Idaho at 325, 834 P.2d at 327. In reviewing the propriety of a probation revocation, the focus of the inquiry is the conduct underlying the trial court's decision to revoke probation. *State v. Morgan*, 153 Idaho 618, 621, 288 P.3d 835, 838 (Ct. App. 2012). Thus, 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 these standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion in revoking probation. Therefore, the orders revoking probation and directing execution of Giesen's previously suspended sentences are affirmed.