

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 50231

STATE OF IDAHO, )  
 )  
 Plaintiff-Respondent, ) **Filed: February 6, 2024**  
 )  
 v. ) **Melanie Gagnepain, Clerk**  
 )  
 DAVID PAUL MILDNER, ) **THIS IS AN UNPUBLISHED**  
 ) **OPINION AND SHALL NOT**  
 ) **BE CITED AS AUTHORITY**  
 Defendant-Appellant. )  
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Appeal from the District Court of the First Judicial District, State of Idaho, Kootenai County. Hon. John T. Mitchell, District Judge.

Judgment of conviction and unified sentence of seven years, with a minimum period of incarceration of three years, for possession of a controlled substance, affirmed.

Erik R. Lehtinen, State Appellate Public Defender; Emily M. Joyce, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Raúl R. Labrador, Attorney General; Kale D. Gans, Deputy Attorney General, Boise, for respondent.

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

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PER CURIAM

David Paul Mildner pled guilty to possession of a controlled substance, methamphetamine, Idaho Code § 37-2732(c)(1). In exchange for his guilty plea, additional charges were dismissed. The district court imposed a unified sentence of seven years, with a minimum period of incarceration of three years. Following a period of retained jurisdiction, the district court relinquished jurisdiction. Mildner appeals, contending that the district court abused its discretion by imposing an excessive sentence and by relinquishing jurisdiction and not placing Mildner on probation.

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 the 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). 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.

Applying these standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion in imposing sentence or by not placing Mildner on probation following his period of retained jurisdiction. Therefore, Mildner's judgment of conviction and sentence are affirmed.