

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 50436

STATE OF IDAHO,)
)
 Plaintiff-Respondent,) **Filed: November 3, 2023**
)
 v.) **Melanie Gagnepain, Clerk**
) **THIS IS AN UNPUBLISHED**
 KENNETH JOSHUA LINDLEY,) **OPINION AND SHALL NOT**
) **BE CITED AS AUTHORITY**
 Defendant-Appellant.)
)
)

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Jerome County. Hon. Rosemary Emory, District Judge.

Order relinquishing jurisdiction, affirmed.

Erik R. Lehtinen, Interim State Appellate Public Defender; Kimberly A. Coster, 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

Kenneth Joshua Lindley pled guilty to battery with intent to commit a serious felony (lewd conduct), Idaho Code §§ 18-903, 18-911.¹ The district court imposed a unified term of fifteen years with three years determinate, and retained jurisdiction. Following the period of retained jurisdiction, the district court relinquished jurisdiction. Lindley appeals, claiming that the district court erred by refusing to grant probation.

The decision as to whether to place a defendant on probation or, instead, to relinquish jurisdiction is committed to the discretion of the sentencing court. *State v. Hernandez*, 122 Idaho

¹ The judgment of conviction contains a typographical error in the citation to Idaho Code § 37-2732(a)(1)(A), the correct citation should be Idaho Code §§ 18-903, 18-911.

227, 230, 832 P.2d 1162, 1165 (Ct. App. 1992); *State v. Lee*, 117 Idaho 203, 786 P.2d 594 (Ct. App. 1990); *State v. Toohill*, 103 Idaho 565, 567, 650 P.2d 707, 709 (Ct. App. 1982). Therefore, a decision to relinquish jurisdiction will not be disturbed on appeal except for an abuse of discretion. *State v. Chapman*, 120 Idaho 466, 816 P.2d 1023 (Ct. App. 1991). The record in this case shows that the district court properly considered the information before it and determined that probation was not appropriate. We hold that the district court did not abuse its discretion, and we therefore affirm the order relinquishing jurisdiction.