

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 44251

STATE OF IDAHO,) 2016 Unpublished Opinion No. 778
)
Plaintiff-Respondent,) Filed: November 16, 2016
)
v.) Stephen W. Kenyon, Clerk
)
AERRIAL LUNA,) THIS IS AN UNPUBLISHED
) OPINION AND SHALL NOT
Defendant-Appellant.) BE CITED AS AUTHORITY
)
_____)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Deborah A. Bail, District Judge.

Judgment of conviction and unified sentence of six years, with a minimum period of confinement of two years, for felony burglary, affirmed.

Eric D. Fredericksen, Interim State Appellate Public Defender; Ben P. McGreevy, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

Before MELANSON, Chief Judge; GUTIERREZ, Judge;
and HUSKEY, Judge

PER CURIAM

Aerial Luna pled guilty to felony burglary, Idaho Code § 18-1401. The district court imposed a unified sentence of six years, with a minimum period of confinement of two years, suspended the sentence and placed Luna on probation. Luna subsequently admitted to two reports of probation violations, and the district court revoked probation and executed the underlying sentence. Luna appeals, contending that the district court erred in failing to retain jurisdiction.

The primary purpose of the retained jurisdiction program is to enable the trial court to obtain additional information regarding the defendant's rehabilitative potential and suitability for

probation, and probation is the ultimate objective of a defendant who is on retained jurisdiction. *State v. Chapel*, 107 Idaho 193, 687 P.2d 583 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 567, 650 P.2d 707, 709 (Ct. App. 1982). There can be no abuse of discretion in a trial court's refusal to retain jurisdiction if the court already has sufficient information upon which to conclude that the defendant is not a suitable candidate for probation. *State v. Beebe*, 113 Idaho 977, 979, 751 P.2d 673, 675 (Ct. App. 1988); *Toohill*, 103 Idaho at 567, 650 P.2d at 709. Based upon the information that was before the district court at the time of sentencing, we hold that the district court did not abuse its discretion when it declined to retain jurisdiction in this case.

Therefore, Luna's judgment of conviction and sentence are affirmed.