

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 40102

STATE OF IDAHO,)	2013 Unpublished Opinion No. 693
)	
Plaintiff-Respondent,)	Filed: October 2, 2013
)	
v.)	Stephen W. Kenyon, Clerk
)	
LYNNSEY DAWN CUMMINGS,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Twin Falls County. Hon. Randy J. Stoker, District Judge.

Order relinquishing jurisdiction, affirmed.

Sara B. Thomas, State Appellate Public Defender; Ben Patrick McGreevy, Deputy Appellate Public Defender, Boise, for appellant.

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

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

PER CURIAM

Lynnsey Dawn Cummings pled guilty to possession of a controlled substance with intent to deliver (methamphetamine), Idaho Code § 37-2732(a)(1)(A). The district court sentenced Cummings to a unified term of eight years, with three years determinate, and retained jurisdiction. After Cummings completed a period of retained jurisdiction, upon recommendation of program staff at the South Boise Women’s Correctional Center, the district court relinquished jurisdiction and executed the underlying sentence. Cummings filed an Idaho Criminal Rule 35 motion for reduction of her sentence, which the district court denied. Cummings now appeals, contending the district court abused its discretion by relinquishing jurisdiction.

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. Cummings has failed to show that the district court abused its discretion, and we therefore affirm the order relinquishing jurisdiction.