

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 40922

STATE OF IDAHO,)	2013 Unpublished Opinion No. 776
)	
Plaintiff-Respondent,)	Filed: December 6, 2013
)	
v.)	Stephen W. Kenyon, Clerk
)	
EMILY McGARRY,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Sixth Judicial District, State of Idaho, Bannock County. Hon. Robert C. Naftz, District Judge.

Order relinquishing jurisdiction, affirmed.

Sara B. Thomas, State Appellate Public Defender; Erik R. Lehtinen, Chief, Appellate Unit, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

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

PER CURIAM

Emily McGarry was convicted of possession of methamphetamine, Idaho Code § 37-2732(c)(1). The district court originally sentenced McGarry to a unified term of seven years with three years determinate, to run concurrently with a sentence in an unrelated case, and retained jurisdiction. At the conclusion of the retained jurisdiction program, the district court relinquished jurisdiction but reduced McGarry's sentence to five years with two years determinate. McGarry filed an Idaho Criminal Rule 35 motion for reduction of sentence. The district court granted the motion, further reducing McGarry's sentence to three years with one year determinate. McGarry appeals the district court's decision to relinquish jurisdiction.

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. Lee*, 117 Idaho 203, 205-06, 786 P.2d 594, 596-97 (Ct. App. 1990). It follows that a decision to relinquish jurisdiction will not be disturbed on appeal except for an abuse of discretion. *State v. Chapman*, 120 Idaho 466, 472, 816 P.2d 1023, 1029 (Ct. App. 1991). Idaho Code § 19-2521 sets out the criteria a court must consider when deciding whether to grant probation or impose imprisonment. A decision to deny probation will not be held to represent an abuse of discretion if the decision is consistent with the Section 19-2521 standards. *State v. Merwin*, 131 Idaho 642, 962 P.2d 1026 (1998). The record in this case shows that the district court properly considered the information before it and determined that probation was not appropriate. Therefore, we hold that the district court did not abuse its discretion.

The order relinquishing jurisdiction is affirmed.