

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 41643

STATE OF IDAHO,)	2014 Unpublished Opinion No. 711
)	
Plaintiff-Respondent,)	Filed: September 4, 2014
)	
v.)	Stephen W. Kenyon, Clerk
)	
FRANCISCO GARZA SOLIS,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Third Judicial District, State of Idaho, Canyon County. Hon. George A. Southworth, District Judge.

Order revoking probation and retaining jurisdiction, affirmed.

Sara B. Thomas, State Appellate Public Defender; Reed P. Anderson, Deputy Appellate Public Defender, Boise, for appellant.

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

Before LANSING, Judge; GRATTON, Judge;
and MELANSON, Judge

PER CURIAM

Francisco Garza Solis pled guilty to battery of a correctional officer. Idaho Code §§ 18-903(b); 18-915(2). The district court imposed a unified five-year sentence with a two-year determinate term, but suspended the sentence and placed Solis on probation for four years. Subsequently, Solis admitted to violating several terms of the probation, and the district court revoked and reinstated Solis’s probation on the condition that he complete mental health court. Shortly thereafter, Solis was suspended and ultimately discharged from mental health court. Solis was then arrested and he later admitted to violating his probation. The district court revoked his probation, ordered his underlying sentence executed, and retained jurisdiction. Following the period of retained jurisdiction, the district court relinquished jurisdiction and ordered execution of the original sentence. Solis appeals, contending that the district court

abused its discretion by declining to reinstate his probation rather than order the second period of retained jurisdiction.

It is within the trial court's discretion to revoke probation if any of the terms and conditions of the probation have been violated. I.C. §§ 19-2603, 20-222; *State v. Beckett*, 122 Idaho 324, 325, 834 P.2d 326, 327 (Ct. App. 1992); *State v. Adams*, 115 Idaho 1053, 1054, 772 P.2d 260, 261 (Ct. App. 1989); *State v. Hass*, 114 Idaho 554, 558, 758 P.2d 713, 717 (Ct. App. 1988). In determining whether to revoke probation, a court must examine whether the probation is achieving the goal of rehabilitation and consistent with the protection of society. *State v. Upton*, 127 Idaho 274, 275, 899 P.2d 984, 985 (Ct. App. 1995); *Beckett*, 122 Idaho at 325, 834 P.2d at 327; *Hass*, 114 Idaho at 558, 758 P.2d at 717. The court may, after a probation violation has been established, order that the suspended sentence be executed or, in the alternative, the court is authorized under Idaho Criminal Rule 35 to reduce the sentence. *Beckett*, 122 Idaho at 325, 834 P.2d at 327; *State v. Marks*, 116 Idaho 976, 977, 783 P.2d 315, 316 (Ct. App. 1989). The court may also order a period of retained jurisdiction. *State v. Urrabazo*, 150 Idaho 158, 162, 244 P.3d 1244, 1248 (2010). A decision to revoke probation will be disturbed on appeal only upon a showing that the trial court abused its discretion. *Beckett*, 122 Idaho at 325, 834 P.2d at 327. In reviewing the propriety of a probation revocation, the focus of the inquiry is the conduct underlying the trial court's decision to revoke probation. *State v. Morgan*, 153 Idaho 618, 621, 288 P.3d 835, 838 (Ct. App. 2012). Thus, this Court will consider the elements of the record before the trial court relevant to the revocation of probation issues which are properly made part of the record on appeal. *Id.*

Applying the foregoing standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion in revoking probation and ordering a period of retained jurisdiction rather than reinstating probation. Therefore, the order revoking probation and retaining jurisdiction is affirmed.