

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 41712

STATE OF IDAHO,)	2014 Unpublished Opinion No. 756
)	
Plaintiff-Respondent,)	Filed: October 10, 2014
)	
v.)	Stephen W. Kenyon, Clerk
)	
TAYLOR HAMPTON BURGESS,)	THIS IS AN UNPUBLISHED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. Cheri C. Copsey, District Judge.

Order revoking probation and reinstating previously suspended unified five-year sentence with two-year determinate term for delivery of marijuana, affirmed.

Sara B. Thomas, 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 GUTIERREZ, Chief Judge; LANSING, Judge;
and MELANSON, Judge

PER CURIAM

Taylor Hampton Burgess pleaded guilty to delivery of marijuana, Idaho Code § 37-2732(a), and the district court imposed a unified five-year sentence with a two-year determinate term and retained jurisdiction. Following the period of retained jurisdiction, the district court suspended the sentence and placed Burgess on supervised probation for five years. A report of probation violation was filed and the district court reinstated Burgess on probation. This probation was subsequently revoked and the suspended sentence ordered into execution. On appeal, Burgess does not challenge the district court’s decision to revoke probation, but argues

only that the district court abused its discretion by failing to sua sponte reduce his sentence upon revocation.

Our decision in *State v. Clontz*, 156 Idaho 787, 792, 331 P.3d 529, 534 (Ct. App. 2014), forecloses a claim that a district court erred by failing to sua sponte reduce an underlying sentence upon revoking probation. Therefore, we will not further address the claim. The order revoking probation and directing execution of Burgess's previously suspended sentence is affirmed.