

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 41759

STATE OF IDAHO,	)	2014 Unpublished Opinion No. 745
	)	
Plaintiff-Respondent,	)	Filed: September 30, 2014
	)	
v.	)	Stephen W. Kenyon, Clerk
	)	
JOSE ALBERTO HUERTA-GARCIA,	)	THIS IS AN UNPUBLISHED
	)	OPINION AND SHALL NOT
Defendant-Appellant.	)	BE CITED AS AUTHORITY
	)	

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Appeal from the District Court of the Fifth Judicial District, State of Idaho, Jerome County. Hon. John K. Butler, District Judge.

Order relinquishing jurisdiction, affirmed.

Sara B. Thomas, State Appellate Public Defender; Jason C. Pintler, Deputy Appellate Public Defender, Boise, for appellant.

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

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

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PER CURIAM

In this case we are asked to determine whether the district court abused its discretion in refusing to grant probation following a period of retained jurisdiction. Jose Alberto Huerta-Garcia entered an *Alford*<sup>1</sup> plea to sexual abuse of a child under sixteen years of age. I.C. § 18-1506(1)(b). In exchange for his guilty plea, additional charges were dismissed. The district court sentenced Huerta-Garcia to a unified term of fifteen years, with a minimum period of confinement of five years. The district court retained jurisdiction and Huerta-Garcia was sent to participate in the rider program. Huerta-Garcia appeals.

<sup>1</sup> See *North Carolina v. Alford*, 400 U.S. 25 (1970).

After Huerta-Garcia completed his rider, the district court relinquished jurisdiction. Huerta-Garcia appeals, claiming that the district court erred 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. We hold that Huerta-Garcia has failed to show that the district court abused its discretion.

The order of the district court relinquishing jurisdiction and Huerta-Garcia's sentence are affirmed.