

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 37602

STATE OF IDAHO,	)	2011 Unpublished Opinion No. 644
	)	
Plaintiff-Respondent,	)	Filed: September 30, 2011
	)	
v.	)	Stephen W. Kenyon, Clerk
	)	
JEFFERY STORM FRANKS,	)	THIS IS AN UNPUBLISHED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 First Judicial District, State of Idaho, Kootenai County. Hon. Lansing L. Haynes, District Judge.

Order revoking probation and requiring execution of unified five-year sentence with one-year determinate term for accessory to a felony, affirmed.

Molly J. Huskey, State Appellate Public Defender; Justin M. Curtis, 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 LANSING, Judge; GUTIERREZ, Judge;  
and MELANSON, Judge

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PER CURIAM

Jeffery Storm Franks was convicted of accessory to a felony, I.C. § 18-205. The district court imposed a unified five-year sentence with a one-year determinate term, suspended the sentence and placed Franks on probation. The sentence was ordered to run concurrently with Franks's sentence in an Oregon case. Franks appealed, contending that his sentence was excessive. The Court of Appeals affirmed Franks's judgment of conviction and sentence. *State v. Franks*, Docket No. 36510 (Ct. App. Jan. 25, 2010) (unpublished). Subsequently, Franks admitted to violating several terms of the probation, and the district court consequently revoked

probation and ordered execution of the original sentence. Franks appeals, contending that the district court abused its discretion in revoking probation.

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 is 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). 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.

When we review a sentence that is ordered into execution following a period of probation, we will examine the entire record encompassing events before and after the original judgment. *State v. Hanington*, 148 Idaho 26, 29, 218 P.3d 5, 8 (Ct. App. 2009). We base our review upon the facts existing when the sentence was imposed as well as events occurring between the original sentencing and the revocation of the probation. *Id.*

Applying the foregoing standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion either in revoking probation or in ordering execution of Franks's original sentence without modification. Therefore, the order revoking probation and directing execution of Franks's previously suspended sentence is affirmed.