

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 37919/37920

STATE OF IDAHO,)	2011 Unpublished Opinion No. 523
)	
Plaintiff-Respondent,)	Filed: June 16, 2011
)	
v.)	Stephen W. Kenyon, Clerk
)	
TAMARR LASALE JIVENS,)	THIS IS AN UNPUBLISHED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. Michael E. Wetherell, District Judge.

Orders relinquishing jurisdiction, affirmed.

Molly J. Huskey, State Appellate Public Defender; Spencer J. Hahn, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Jessica M. Lorello, Deputy Attorney General, Boise, for respondent.

Before LANSING, Judge; GUTIERREZ, Judge;
and MELANSON, Judge

PER CURIAM

This is a consolidated appeal. In Docket No. 37919, Tamarr Lasale Jivens pleaded guilty to felony domestic violence, Idaho Code §§ 18-903; 18-918(3). The district court imposed a unified ten-year sentence with five years determinate and retained jurisdiction. At the conclusion of the retained jurisdiction program, the district court suspended the sentence and placed Jivens on probation for nine years. Jivens was subsequently convicted in Docket No. 37920 of felony operating a motor vehicle while under the influence of alcohol, I.C. §§ 18-8004; 18-8005(6). The district court revoked Jivens' probation and executed the underlying sentence, imposed a consecutive unified ten-year sentence with two years determinate for the DUI, and retained

jurisdiction in both cases. Following this period of retained jurisdiction, the district court relinquished jurisdiction and ordered execution of Jivens' sentences, reducing the determinate portion of the sentence in Docket No. 37919 to four years and increasing the indeterminate portion to six years. Jivens appeals the district court's decision to relinquish jurisdiction in both cases and contends the court abused its discretion in failing to sua sponte reduce his sentence in Docket No. 37920, and in failing to further reduce his sentence in Docket No. 37919.

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. Hernandez*, 122 Idaho 227, 230, 832 P.2d 1162, 1165 (Ct. App. 1992); *State v. Lee*, 117 Idaho 203, 786 P.2d 594 (Ct. App. 1990); *State v. Toohill*, 103 Idaho 565, 567, 650 P.2d 707, 709 (Ct. App. 1982). Therefore, a decision to relinquish jurisdiction will not be disturbed on appeal except for an abuse of discretion. *State v. Chapman*, 120 Idaho 466, 816 P.2d 1023 (Ct. App. 1991). 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 the district court did not abuse its discretion, and we therefore affirm the orders relinquishing jurisdiction.

Sentencing is a matter for the trial court's discretion. Both our standard of review and the factors to be considered in evaluating the reasonableness of the sentence are well established and need not be repeated here. *See State v. Hernandez*, 121 Idaho 114, 117-18, 822 P.2d 1011, 1014-15 (Ct. App. 1991); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984); *Toohill*, 103 Idaho at 568, 650 P.2d at 710. When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 726, 170 P.3d 387, 391 (2007). Applying these standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion.

The orders relinquishing jurisdiction and ordering execution of the sentences in Docket Nos. 37919 and 37920 are affirmed.