

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 37910/37911/37930/37937

STATE OF IDAHO,)	2011 Unpublished Opinion No. 571
)	
Plaintiff-Respondent,)	Filed: August 3, 2011
)	
v.)	Stephen W. Kenyon, Clerk
)	
KENNETH ALEXANDER KAISER, JR.,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Cassia County. Hon. Michael R. Crabtree, District Judge.

Orders revoking probation and executing sentences for possession of methamphetamine and forgery, affirmed. Judgment of conviction and sentences for unlawful discharge of a firearm at an occupied vehicle and possession of a firearm by a felon, affirmed.

Molly J. Huskey, State Appellate Public Defender; Sara B. Thomas, Chief, Appellate Unit, Boise, for appellant.

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

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

PER CURIAM

These cases are consolidated on appeal. In Docket No. 37930, Kenneth Alexander Kaiser, Jr. was convicted of possession of methamphetamine, Idaho Code § 37-2732(c)(1). The district court imposed a unified seven-year sentence with a two-year determinate term, but after a period of retained jurisdiction, suspended the sentence and placed Kaiser on probation. While that case was pending, Kaiser pleaded guilty in Docket No. 37911 to forgery, I.C. § 18-3601. The district court imposed a unified five-year sentence with two years determinate, suspended the sentence and placed Kaiser on probation. In Docket No. 37937, Kaiser pleaded guilty to

possession of methamphetamine, I.C. § 37-2732(c)(1). The district court revoked probation and ordered execution of the sentences in Docket Nos. 37930 and 37911, imposed a unified seven-year sentence with two years determinate in Docket No. 37937, and retained jurisdiction in all three cases. Following retained jurisdiction in these cases, the district court suspended Kaiser's sentences and placed him on supervised probation. Subsequently, in Docket No. 37910, Kaiser pleaded guilty to unlawful discharge of a firearm at an occupied vehicle, I.C. § 18-3317, and possession of a firearm by a felon, I.C. § 18-3316. The district court consequently revoked probation and ordered execution of the original sentences in Docket Nos. 37930, 37911, and 37937. In Docket No. 37910, the district court imposed consecutive unified sentences of fifteen years with three years determinate for unlawful discharge of a firearm and five years with one day determinate for possession of a firearm by a felon. Kaiser appeals, contending that the district court abused its discretion in revoking probation in Docket Nos. 37930, 37911, and 37937 without again retaining jurisdiction and in failing to retain jurisdiction in Docket No. 37910.

The primary purpose of the retained jurisdiction program is to enable the trial court to obtain additional information regarding the defendant's rehabilitative potential and suitability for probation, and probation is the ultimate objective of a defendant who is on retained jurisdiction. *State v. Chapel*, 107 Idaho 193, 687 P.2d 583 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 567, 650 P.2d 707, 709 (Ct. App. 1982). There can be no abuse of discretion in a trial court's refusal to retain jurisdiction if the court already has sufficient information upon which to conclude that the defendant is not a suitable candidate for probation. *State v. Beebe*, 113 Idaho 977, 979, 751 P.2d 673, 675 (Ct. App. 1988); *Toohill*, 103 Idaho at 567, 650 P.2d at 709. Based upon the information that was before the district court at the time of sentencing, we hold that the district court did not abuse its discretion when it declined to retain jurisdiction upon sentencing in Docket No. 37910 and upon revoking probation in Docket Nos. 37930, 37911, and 37937.

Therefore, the judgment of conviction and sentences in Docket No. 37910 and the orders revoking probation and directing execution of Kaiser's previously suspended sentences in the remaining cases are affirmed.