

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 37720

STATE OF IDAHO,)	2011 Unpublished Opinion No. 563
)	
Plaintiff-Respondent,)	Filed: July 29, 2011
)	
v.)	Stephen W. Kenyon, Clerk
)	
VICTORIA MARIE RAMIREZ,)	THIS IS AN UNPUBLISHED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, Jerome County. Hon. John K. Butler, District Judge.

Order revoking probation and requiring execution of unified five-year sentence with two-year determinate term for possession of a controlled substance, affirmed.

Molly J. Huskey, State Appellate Public Defender; Shawn F. Wilkerson, Deputy Appellate Public Defender, Boise, for appellant.

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

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

PER CURIAM

Victoria Marie Ramirez pled guilty to possession of a controlled substance, Idaho Code § 37-2732(c)(1), pursuant to a plea bargain. The district court imposed a unified five-year sentence with a two-year determinate term, but the court suspended the sentence and placed Ramirez on probation for a period of four years. Subsequently, Ramirez was found to have violated several terms of the probation and the district court revoked probation, placing Ramirez in the retained jurisdiction program. After Ramirez completed retained jurisdiction, the district court placed Ramirez back on probation for a period of four years. Ramirez was again found to have violated several terms of the probation. The district

court consequently revoked probation and ordered execution of the original sentence, a unified five-year sentence with a two-year determinate term. Ramirez appeals, contending that the district court abused its discretion in revoking probation, that the sentence is excessive, and that the district court should have sua sponte reduced Ramirez's sentence upon revocation of her 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 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.

Sentencing is also a matter for the trial court's discretion. Both our standard of review and the factors to be considered in evaluating the reasonableness of a 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); *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). 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).

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 Ramirez's original sentence without modification. Therefore, the order revoking probation and directing execution of Ramirez's previously suspended sentence is affirmed.