

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 41885/41886

STATE OF IDAHO, ) 2014 Unpublished Opinion No. 881  
 )  
 Plaintiff-Respondent, ) Filed: December 30, 2014  
 )  
 v. ) Stephen W. Kenyon, Clerk  
 )  
 SUSAN LESLIE LARA, ) THIS IS AN UNPUBLISHED  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.

Judgment of conviction and unified five-year sentence with one-year determinate term for possession of a controlled substance by an inmate, affirmed; order relinquishing jurisdiction, affirmed.

Sara B. Thomas, State Appellate Public Defender; Spencer J. Hahn, 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; GRATTON, Judge;  
and MELANSON, Judge  
\_\_\_\_\_

PER CURIAM

In these consolidated cases, Susan Lee Lara was convicted of felony driving under the influence, Idaho Code § 18-8004C(2) (Docket No. 41885), and possession of a controlled substance by an inmate, I.C. § 18-2510(3)(c) (Docket No. 41886). In Docket No. 41885, the district court sentenced Lara to a unified term of five years, with a minimum period of confinement of three years, and retained jurisdiction. After the period of retained jurisdiction, the district court suspended the sentence and placed Lara on probation. Following several

periods of probation and a second retained jurisdiction, Lara admitted to violating the terms of the probation, including possession of a controlled substance by an inmate, which led to the charge in Docket No. 41886. The district court revoked Lara's probation in Docket No. 41885, imposed a concurrent unified sentence of five years with one year determinate in Docket No. 41886, and retained jurisdiction in both cases. At the conclusion of the retained jurisdiction program, the court relinquished jurisdiction and ordered execution of Lara's sentences. Lara filed Idaho Criminal Rule 35 motions in both cases, which the district court denied. Lara appeals the court's decision to relinquish jurisdiction and contends that her sentence in Docket No. 41886 is excessive.

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 order 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); *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). Applying these standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion.

The orders of the district court relinquishing jurisdiction and ordering execution of the underlying sentences without modification are affirmed.