

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 43350

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| STATE OF IDAHO, |) | 2016 Unpublished Opinion No. 308 |
| |) | |
| Plaintiff-Respondent, |) | Filed: January 6, 2016 |
| |) | |
| v. |) | Stephen W. Kenyon, Clerk |
| |) | |
| DENISE E. CLARK, |) | THIS IS AN UNPUBLISHED |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. Cheri C. Copsey, District Judge.

Order relinquishing jurisdiction, affirmed.

Sara B. Thomas, State Appellate Public Defender; Ben P. McGreevy, Deputy Appellate Public Defender, Boise, for appellant.

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

Before MELANSON, Chief Judge; GRATTON, Judge;
and HUSKEY, Judge

PER CURIAM

Denise E. Clark pled guilty to grand theft. I.C. §§ 18-2403(1), 18-2407(1)(b). The district court sentenced Clark to a unified term of five years, with a minimum period of confinement of one year. The district court suspended the sentence and placed Clark on probation.

Clark thereafter admitted to violating the terms of her probation. The district court revoked probation but placed Clark back on probation with the requirement that she complete the drug court program. Clark was discharged from drug court and admitted to again violating the terms of her probation. The district court revoked probation, ordered execution of her previously

suspended sentence, but retained jurisdiction. After Clark completed her rider, the district court relinquished jurisdiction. Clark moved for a reduction of her sentence pursuant to I.C.R. 35, which the district court denied. Clark appeals, claiming that the district court erred by refusing to grant probation.

We note that the decision to place a defendant on probation or whether, instead, to relinquish jurisdiction over the defendant is a matter within the sound discretion of the district court and will not be overturned on appeal absent an abuse of that discretion. *State v. Hood*, 102 Idaho 711, 712, 639 P.2d 9, 10 (1981); *State v. Lee*, 117 Idaho 203, 205-06, 786 P.2d 594, 596-97 (Ct. App. 1990). 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 Clark has failed to show that the district court abused its discretion in relinquishing jurisdiction.

Clark argues that all of the relevant goals of sentencing could have been accomplished with probation. As noted above, however, the district court found that probation was not an appropriate course of action in Clark's case.

The order of the district court relinquishing jurisdiction is affirmed.