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State v. Sanchez Respondent's Brief Dckt. 45058

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 45058
Plaintiff-Respondent,)	
)	Kootenai County Case No.
v.)	CR-2013-23775
)	
MICHAEL ANTHONY SANCHEZ,)	
)	RESPONDENT'S BRIEF
Defendant-Appellant.)	
_____)	

Issue

Has Sanchez failed to establish that the district court abused its discretion when, upon revoking his probation, it executed his concurrent underlying sentences of 30 years, with 15 years fixed, for two counts of robbery, 10 years fixed for burglary, and 14 years fixed for grand theft?

Sanchez Has Failed To Establish That The District Court Abused Its Sentencing Discretion

In December 2013, Sanchez decided to rob a store to obtain money to purchase drugs.

(PSI, p.5.¹) He donned a hooded sweatshirt and attempted to conceal his identity by pulling the hood up over his head and covering the lower half of his face with a bandana. (R., p.17.) Sanchez entered a Domino's Pizza store carrying a heavy black handgun, walked directly over to an employee (Troy) who was making pizzas, directed Troy to "Put your hands up and get me the money," and then grabbed Troy by the back of the neck and hit him in the head with the butt of the gun, inflicting a "deep gash ... on [Troy's] left temple to the left of his eye." (R., pp.17-19.) Sanchez demanded cash from the store's safe and pointed the gun at the other employee (Tiffany), stating, "If you guys don't listen to me there's going to be blood all over." (R., pp.17-19.) Sanchez stole Tiffany's tip money from her money bag, forced her to turn toward the wall and stand with her hands against it, and ordered her to stay there. (R., pp.18-19.) He then forced Troy to open the safe and the till and stole approximately \$1,292.00 before leaving the store. (R., pp.18-20.)

The state charged Sanchez with two counts of robbery and one count each of aggravated battery, burglary, and grand theft. (R., pp.87-89.) Pursuant to a plea agreement, Sanchez pled guilty to two counts of robbery, one count of burglary, and one count of grand theft, and the state dismissed the aggravated battery charge and agreed to recommend that Sanchez's sentences run concurrently with one another. (R., pp.157-58.) The district court imposed concurrent unified sentences of 30 years, with 15 years fixed, for each count of robbery, 10 years fixed for burglary, and 14 years fixed for grand theft. (R., pp.192-94.) The court also retained jurisdiction for 365 days. (R., pp.192-94.) Judgment was entered on June 12, 2014. (R., p.192.) Sanchez filed a

¹ PSI page numbers correspond with the page numbers of the electronic file "Sanchez – Sealed - 45058.pdf."

timely Rule 35 motion for a reduction of sentence, which the district court denied. (R., pp.197-98, 202-03.)

At the jurisdictional review hearing held on November 10, 2014, the district court continued its jurisdiction “due to the poor performance and anger issues” Sanchez exhibited while in the CAPP rider program. (R., pp.199-200, 202-03.) The court recommended that Sanchez be placed in the “CRF CAPP Retained Jurisdiction.” (R., p.202.)

On May 6, 2015, Sanchez filed a motion to continue the retained jurisdiction period for 30 days “to insure [his] completion” of his rider program, from which he was scheduled to graduate on June 11, 2015. (R., pp.204-06.) The same day, the district court granted the motion and entered an order extending its jurisdiction “for an additional 30 (thirty) days beyond the previously ordered 365.” (R., pp.207-08 (parenthetical notation original).) At the jurisdictional review hearing held on June 24, 2015, the district court suspended Sanchez’s sentences and placed him on supervised probation for four years. (R., pp.213-17.) In the terms and conditions of probation, the district court ordered, “If you violate any of the terms and conditions of your probation, you will be brought before the Court for imposition of your suspended judgment and sentence.” (R., p.217.)

In December 2016, Sanchez’s probation officer filed a report of violation alleging that Sanchez had violated the conditions of his probation by committing the new crime of possession of methamphetamine, possessing a “high powered air pistol,” failing to obtain or maintain employment, failing to complete any of his community service hours, and using heroin, marijuana and methamphetamine. (Report of Probation Violation (Augmentation).) Sanchez’s probation officer also noted that Sanchez had failed to seek counseling or obtain assistance with substance abuse treatment, that Sanchez repeatedly cancelled or “forgot” appointments with his

probation officer, and that Sanchez changed residences numerous times and “it took great effort for his probation officer to determine where Mr. Sanchez was residing.” (Report of Probation Violation, p.3 (Augmentation).) Sanchez admitted that he violated the conditions of his probation by failing to complete any of his community service hours and by using heroin and marijuana, and the district court subsequently found that Sanchez had also violated the terms of his probation by committing the new crime of possession of methamphetamine, possessing a high powered air pistol, using methamphetamine, and failing to maintain employment. (R., pp.233-37.) The district court revoked Sanchez’s probation and executed the underlying sentences. (R., pp.238-39.) Sanchez filed a notice of appeal timely from the district court’s order revoking probation and executing his underlying sentences. (R., pp.242-44.) He also filed a second, successive Rule 35 motion for a reduction of sentence, which the district court denied “for lack of jurisdiction.” (R., pp.240-41, 259-62.)

Sanchez asserts that the district court abused its discretion when, upon revoking his probation, it executed his underlying sentences, rather than reinstating his probation or retaining jurisdiction, because he asked the district court to release him to Port of Hope for treatment and individual counseling, he “filed taxes for the first time” and purportedly ““tried to do the best [he] could”” while on probation, and his excuse for using marijuana, heroin and methamphetamine was that he was overwhelmed by life events and ““couldn’t deal with [his] emotions and feelings.”” (Appellant’s brief, pp.4-7 (citing 2/28/17 Tr., p.56, Ls.12-13; p.58, Ls.13-14).) Sanchez has failed to establish an abuse of discretion.

“Probation is a matter left to the sound discretion of the court.” I.C. § 19-2601(4). A trial court's decision regarding whether to place a defendant on probation, retain jurisdiction, or order a defendant’s sentence into execution 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. Reber, 138 Idaho 275, 278, 61 P.3d 632, 635 (Ct. App. 2002) (citations omitted); State v. Lee, 117 Idaho 203, 205-06, 786 P.2d 594, 596-97 (Ct. App. 1990). Probation is the ultimate goal of retained jurisdiction. State v. Jones, 141 Idaho 673, 677, 115 P.3d 764, 768 (Ct. App. 2005). Refusal to place a defendant on probation and/or to retain jurisdiction will not be deemed a clear abuse of discretion if the trial court has sufficient information to determine that a suspended sentence and probation would be inappropriate under I.C. § 19-2521. State v. Brunet, 155 Idaho 724, 729, 316 P.3d 640, 645 (2013) (quoting State v. Statton, 136 Idaho 135, 137, 30 P.3d 290, 292 (2001)); Reber, 138 Idaho at 278, 61 P.3d at 635 (citing State v. Toohill, 103 Idaho 565, 567, 650 P.2d 707, 709 (Ct. App. 1982)).

Pursuant to I.C. § 19-2521(1):

The court shall deal with a person who has been convicted of a crime without imposing sentence of imprisonment unless, having regard to the nature and circumstances of the crime and the history, character and condition of the defendant, it is of the opinion that imprisonment is appropriate for protection of the public because:

(a) There is undue risk that during the period of a suspended sentence or probation the defendant will commit another crime; or

(b) The defendant is in need of correctional treatment that can be provided most effectively by his commitment to an institution; or

(c) A lesser sentence will depreciate the seriousness of the defendant's crime; or

(d) Imprisonment will provide appropriate punishment and deterrent to the defendant; or

(e) Imprisonment will provide an appropriate deterrent for other persons in the community; or

(f) The defendant is a multiple offender or professional criminal.

I.C. § 19-2521(1). The goal of probation is to foster the probationer's rehabilitation while protecting public safety. State v. Cheatham, 159 Idaho 856, ___, 367 P.3d 251, 253 (Ct. App. 2016) (citations omitted).

Sanchez is not an appropriate candidate for probation in light of his continuing substance abuse and criminal behavior, failure to demonstrate sufficient rehabilitative progress while in the community, and the danger he poses to the public. The instant offenses were violent and dangerous, and Sanchez admitted both that he committed the instant robbery offenses in order to get cash to buy drugs and that he “used to do robberies” previously. (PSI, p.5; R., p.27.) While on his CAPP rider, Sanchez performed poorly and continued to demonstrate “anger issues.” (R., p.202.) Upon placing Sanchez on probation, the district court ordered, “If you violate any of the terms and conditions of your probation, you will be brought before the Court for imposition of your suspended judgment and sentence.” (R., p.217.) While on probation, Sanchez was found in possession of a weapon similar to the one he used in the instant robbery offenses, committed a new felony offense, used heroin, methamphetamine and marijuana (after having blamed his drug use for committing the instant robbery offenses), failed to attend multiple supervision appointments, failed to complete any of his 100 community service hours, failed to follow through with obtaining employment and substance abuse treatment, “appeared to be deceptive about his residence,” associated with drug users, failed to obtain his GED, and stopped attending support groups. (Report of Probation Violation, pp.1-3 (Augmentation); 2/28/17 Tr., p.64, Ls.1-18.) That the district court subsequently followed through with its previously-stated consequences by revoking Sanchez’s probation and executing the underlying sentences was not an abuse of discretion; imprisonment was necessary in this case to achieve the goals of protection of society and rehabilitation due to Sanchez’s unwillingness to comply with the

conditions of probation, his continued criminal offending, and his failure to rehabilitate or to follow through with community-based treatment options.

At the disposition hearing for Sanchez's probation violations, the state addressed the serious and violent nature of the original offenses, Sanchez's continuing disregard for the law and the terms of probation, the danger he presents to society, and his failure to rehabilitate or be deterred. (2/28/17 Tr., p.52, L.15 – p.54, L.8 (Appendix A).) The district court subsequently articulated its reasons for declining to reinstate Sanchez on probation or to retain jurisdiction. (2/28/17 Tr., p.62, L.11 – p.65, L.24 (Appendix B).) The state submits that Sanchez has failed to establish that the district court abused its discretion by ordering Sanchez's sentences into execution upon revoking his probation, for reasons more fully set forth in the attached excerpts of the disposition hearing transcript, which the state adopts as its argument on appeal. (Appendices A and B.)

Conclusion

The state respectfully requests this Court to affirm the district court's order revoking Sanchez's probation and executing his underlying sentences.

DATED this 21st day of September, 2017.

/s/ Lori A. Fleming
LORI A. FLEMING
Deputy Attorney General

VICTORIA RUTLEDGE
Paralegal

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 21st day of September, 2017, served a true and correct copy of the attached RESPONDENT'S BRIEF by emailing an electronic copy to:

BEN P. MCGREEVY
DEPUTY STATE APPELLATE PUBLIC DEFENDER

at the following email address: briefs@sapd.state.id.us.

/s/ Lori A. Fleming
LORI A. FLEMING
Deputy Attorney General

APPENDIX A

1 What I was going to then say was that it was the
2 officer who made the mistake in — in saying that my client
3 admitted to meth use. He had in his custody — I mean that
4 in the broadest sense, not necessarily —
5 THE COURT: Officer Cowell made a mistake?
6 MR. PIERCE: Yes. That my client admitted using
7 heroin. That was my client's drug of choice. But that's —
8 the point is that Officer Cowell had a known methamphetamine
9 user in Miss Purbis. The drugs and airguns were under a
10 women's clothing. And he chose to allege that — that the
11 meth was my client's.
12 What we're asking is that the Court see that my
13 client had relapsed to heroin, asked his PO for treatment,
14 and they said he didn't qualify for treatment.
15 The evidence — the evidence would indicate that
16 the meth was Miss Purbis's, not my client's.
17 Thank you.
18 THE COURT: Anything in response, Mr. Verharen?
19 MR. VERHAREN: No, Judge.
20 THE COURT: Okay.
21 We're here on allegations one, two, five and six.
22 Allegation one's been proven not only by a
23 preponderance, but it's uncontradicted that he was arrested
24 for possession of a controlled substance, methamphetamine.
25 So, one's proven beyond the required standard.

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1 and the defendant admitted he would UA positive for meth and
2 THC. An Officer Cowell was quite clear about meth and not
3 heroin.
4 Additionally, the signs that — that the defendant
5 was exhibiting are indicative of meth and — and not heroin
6 use.
7 Additionally, smell of marijuana. I mean, it's —
8 it's way beyond a preponderance of the evidence that there
9 was meth in the car and that Mr. Sanchez was in control of
10 that meth, and — and, in fact, had used meth that day, or
11 was under the influence of meth; had used meth, would test
12 positive for meth.
13 Five is proven.
14 Six. Failure to obtain maintain employment. At
15 least maintaining employment has been — well, since
16 December 20th, 2016, it has been proven that Mr. Sanchez has
17 failed to obtain and maintain — or maintain employment.
18 And I find that that's been proven. It's uncontradicted.
19 So, is plaintiff ready to proceed to disposition?
20 MR. VERHAREN: Yes, Judge.
21 THE COURT: Defense ready?
22 MR. PIERCE: Yes, Your Honor.
23 THE COURT: All right. Any witnesses by the
24 plaintiff for disposition?
25 MR. VERHAREN: No witnesses.

1 Allegation two has been proven. Mr. Sanchez is in
2 proximity of the high-powered air pistols. And it was — it
3 was proven that it was within Sanchez's reach.
4 Mr. Sanchez admitted that his — if tested for
5 fingerprints that his fingerprints would likely appear on
6 it. So, he is in the closest proximity to that weapon as
7 compared to the other two occupants. And the fact that it's
8 covered up by women's clothing really has no significance to
9 me whatsoever other than that somebody was trying to conceal
10 from — from plain view might — maybe what was in the — in
11 the car, not only the air pistols, but the methamphetamine
12 underneath.
13 So, number two has been proven well beyond a
14 preponderance.
15 Five. Mr. Sanchez was found to be in possession
16 of methamphetamine on December 20th, 2016. That's been
17 proven by a preponderance. Again, same analysis with the
18 gun, close proximity, easy arm's reach. Admission to prints
19 on what was on top of the methamphetamine. The other two
20 people weren't in close proximity. So, control as among the
21 three people in the vehicle really is predominant upon
22 Mr. Sanchez and not the other two people.
23 Additionally, physical signs of being under the
24 influence. Mr. Sanchez testified — or I'm sorry — Officer
25 Cowell testified that he asked the defendant about his use,

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1 THE COURT: Any witnesses by the defense for
2 purposes of deposition?
3 MR. PIERCE: Other than my client would like to
4 make a statement regarding disposition.
5 THE COURT: Sure.
6 Okay. Okay. And if you're not going to be called
7 as a witness, what will happen next is I will hear from the
8 attorneys. After I've heard their recommendations,
9 Mr. Sanchez, I will give you a chance to tell me anything
10 you want before I make any decision.
11 Do you understand that process?
12 THE DEFENDANT: Yes, sir.
13 THE COURT: Okay. State's recommendations,
14 Mr. Verharen?
15 MR. VERHAREN: You might remember the original
16 factual scenario surrounding these convictions. Mr. Sanchez
17 put on a ski mask and walked into what appeared — with what
18 appeared to be a gun into a Dominoes up in Hayden and held
19 up the kid that was making pizzas there, and then used that
20 weapon to hit the boy, left him a scar on his head that will
21 always be there.
22 And then he help up the other worker that was
23 there and walked out of there with about \$1200 in cash after
24 robbing those two people. And that's important because the
25 object that he used to accomplish those robberies, that

1 black pistol, it wasn't really a pistol, it was a BB gun. I
2 don't know if the Court remembers that or not. It was one
3 of those metal BB guns. It was what he had here on this
4 particular date when he was up in Bonners Ferry.

5 Basically, I think the real issue here is public
6 safety, Judge. You have a -- a person that committed a very
7 violent offense. In committing that offense, he earned
8 every single year that you have hung over his head. He's
9 got quite a few chances. He's had two retained
10 jurisdictions now. He's had a probation violation that has
11 occurred before. He is nonetheless, after those two
12 retained jurisdictions, after the number of opportunities
13 he's had, he's out driving around in a car with a couple of
14 pistols at least that were similar to the pistol he used in
15 this robbery. He's got methamphetamine near him. He is
16 smoking heroin or using heroin.

17 He's not doing what he is supposed to be doing in
18 treatment. And all those things just basically equate to
19 one thing, and that's he's going to reoffend. And
20 Mr. Sanchez has shown he is cable of committing very savage
21 crime in the community. And he's just going to do it again,
22 judge, if you -- if you don't put him away. I mean, that's
23 the one thing that you know is that he can commit a crime
24 like he did in this case. And he has not shown any -- in
25 any fashion that he's going to change his ways. He's had

1 numerous chances to take care of his substance abuse issues,
2 to live a different kind of life, and he's just not doing
3 that. And I think it's time to send him on his way, Judge.

4 So, I know that the department has recommended
5 another retained jurisdiction, but I think that's just going
6 to put us back in the same place that we've been before. I
7 think now Mr. Sanchez has really earned that prison sentence
8 now. I think you ought to impose it.

9 Thank you.

10 THE COURT: All right.

11 And, Mr. Pierce?

12 MR. PIERCE: Thank you, Your Honor.

13 Your Honor, my client relapsed, admitted he
14 relapsed, sought help for the relapse. Found himself in a
15 car with two people that the Bonners Ferry Police Department
16 knew, and he was arrested and is fighting it up there.

17 If he -- if my client hadn't worked hard, got his
18 flagging certificate, worked through the -- the summer
19 season and asked for help from his PO in -- in dealing with
20 the relapse, I would be standing here today with -- with --
21 with -- without much to say to counter what the State just
22 said, but my client was working his probation.

23 The fact that he was on two riders isn't --
24 isn't -- it's not normal that he was on two riders.

25 He went on a rider, came back, and this Court sent

1 him on another rider because at that point he didn't qualify
2 for the -- the nine-month rider. The rider program is now
3 totally different. It's not as if he flopped a rider or got
4 out on his rider, got on probation, flopped probation, went
5 back on a rider. It was basically one continuous
6 three-month rider, and then a six-month rider, or vice
7 versa. But he was never out between those. He was always
8 in custody.

9 So, what -- what he did on that -- on the rider
10 was worked a three-month and a six-month because the -- at
11 the ROU they said he couldn't get into the nine-month.

12 That -- that rider system or programming is --
13 is -- as this Court's well aware, has been changed.

14 My client then embraced probation and -- and was
15 working. Simply relapsed, Your Honor.

16 Thank you.

17 THE COURT: And anything you want to tell me,
18 Mr. Sanchez?

19 THE DEFENDANT: Yes, sir.

20 I'm not here to justify my actions of what
21 Mr. Verharen said about my original crime. What was said I
22 did do. What led to that was drugs.

23 I feel I wouldn't have -- I never have and I
24 wouldn't have if I was never an addict. I went on two
25 different riders that were totally different, three month,

1 what was supposed to be the drug treatment, and the
2 six-month, which was my anger management and violent -- I
3 had to work on my violence. And so I did two different
4 riders. But I'm not -- I'm not going to justify anything
5 that I did. I did do it. And I -- I embraced what you want
6 me to do, the -- the riders. I tried to do my best.

7 After 19 months of being locked up and doing
8 riders, it -- it kind of messed with me a little bit
9 being -- starting off 22 years old and doing around close to
10 two years, first time ever doing time locked up at all.
11 Kind of messed with me a little bit.

12 I got out on probation and tried to do the best I
13 could. It was -- it was fine at first. I -- I felt I was
14 doing well. I believe it was like the first week or two
15 that I was out, I got a job, stuck with it for a few months.
16 And my PO, he's -- he's right. I'd get a job, and then
17 something would happen. So I would end up either quitting or
18 getting fired from one or two.

19 It's -- it's true what they say, but I tried my
20 best. You can only learn so much so all I can do is try.
21 There's no guide to being a good person or good father or a
22 good husband. You just got to try and do the best you can
23 and hopefully make the best of it. And that's what I tried
24 to do. Ended up getting my certification for flagging and
25 was seeking a career on something that I never really did in

APPENDIX B

1 either Facebook or cell phone. We would get together for
 2 meetings.
 3 THE COURT: How often were you in contact with
 4 Carl Grove?
 5 THE DEFENDANT: I would say maybe out of the week
 6 maybe once or twice a week.
 7 THE COURT: How often were you going to meetings?
 8 THE DEFENDANT: After the 90/90?
 9 After the 90/90, I didn't really -- to be honest,
 10 I didn't really like the 90/90 because there's a lot of
 11 people that were selling drugs there, and most of them were
 12 forced to be there, so it wasn't -- I didn't really like it.
 13 It was -- it was -- it was a bad environment for me.
 14 THE COURT: So, you just didn't go?
 15 THE DEFENDANT: After the 90/90, no, I didn't. I
 16 mean, I would go to a couple, maybe every couple months try
 17 different places but -- it's just more meetings, which was
 18 me and the sponsor.
 19 THE COURT: That's all the questions I have.
 20 Thank you.
 21 Are you not willing to do Good Samaritan any
 22 anymore?
 23 THE DEFENDANT: When I talked to my PO, I was
 24 never told directly that I had to do Good Samaritan.
 25 I went through three different POs within --

1 concurrent.
 2 And I am going to commit you to the custody of the
 3 Idaho State Board of Corrections today. I'm not going to
 4 retain jurisdiction. And I need to give you the reasons for
 5 that.
 6 This -- the underlying crime that occurred back in
 7 late 2014 is a serious -- four serious charges. I mean, you
 8 are a risk to the public. And you are an addict, and I get
 9 it that, but you have decided to make a lot of choices that
 10 are inconsistent with you ever wanting to get better from an
 11 addiction standpoint. And that's what causes me to not be
 12 able to consider you to be a safe risk in the community.
 13 You're the one, and you're the only one that made
 14 the decision to not go to support meetings anymore. You're
 15 the one, and you're the only one that made the decision not
 16 to be in daily support with a sponsor. You're the one, and
 17 you're the only one that -- that left the IOP house after
 18 three months.
 19 You are doing a pretty good job here today blaming
 20 other people, blaming the system for the 19 months that you
 21 were incarcerated. When you, in fact, made it about a year
 22 without any apparent problems from June 15, 2015 to -- to
 23 roughly June of 2016, when you relapsed.
 24 It's not your probation officer's responsibility
 25 to solve all your problems. You've got to be the one that

1 THE COURT: I'm going to ask the question again.
 2 THE WITNESS:
 3 THE DEFENDANT: Okay. Go ahead. I'm sorry.
 4 THE COURT: You say you want treatment.
 5 THE DEFENDANT: Yes.
 6 THE COURT: Is there a reason that you're not
 7 suggesting Good Samaritan as an option now?
 8 THE DEFENDANT: I just don't know much about it.
 9 I wouldn't -- if it's treatment, and it helps me, that's
 10 progress in any way, really, so --
 11 THE COURT: All right.
 12 Mr. Sanchez, I'm going to impose the following
 13 prison sentences: Count 1, robbery, robbery for events that
 14 occurred November 15th, 2014, it was fixed, 15-year sentence
 15 followed by an indeterminate 15, total of 30 years.
 16 Count 2, robbery, for events that occurred
 17 November 14th. That was 15 years fixed, 15 indeterminate,
 18 total of 30.
 19 Count 3, burglary, for events that occurred
 20 November 15. That was ten years fixed followed by an
 21 indeterminate zero year sentence. Total sentence not to
 22 exceed ten years.
 23 And then grand theft, Count 4, for events that
 24 occurred November 14th, it was 14 years fixed, zero years
 25 indeterminate, total of 14. Those sentences all run

1 makes good decisions on a consistent basis. And what you
 2 did in December was you, and you alone were the one that
 3 chose to be around people who were using meth, who you had
 4 to have known were using meth, who -- I don't know who the
 5 weapons belonged to, but you knew that weapons were there,
 6 and it's similar behavior. So, you've done nothing to
 7 change the people that you're hanging out with. And those
 8 are decisions that only you make; not your probation
 9 officer.
 10 I doubt you'd approved any one of those two
 11 individuals through your probation officer. And that's how
 12 your probation officer could help you. If you're not even
 13 asking, then he can't help you do that.
 14 THE DEFENDANT: Can I ask you a question, sir?
 15 THE COURT: When I finish.
 16 There were other -- while you didn't have any
 17 violations the first year, you didn't get your GED, and
 18 right after the 90 days, you stopped going to support. So,
 19 it shows me that you aren't serious about your probation.
 20 It shows me that you aren't serious about recovery. And,
 21 again, while you didn't have any trouble with the first year
 22 of your probation, I think from the start you showed that
 23 you weren't serious about it.
 24 So, I -- I -- I would have considered a retained
 25 followed by something along the lines of Good Samaritan for

1 a year or ten months, but I don't hear that out of your
 2 mouth as an option.
 3 I don't hear you having any knowledge about what a
 4 structured program life is like, such as Good Samaritan's
 5 all about. So, I do not see where a retained jurisdiction
 6 would have any -- operating on its own, where a retained
 7 jurisdiction would be sufficient to put you in a position
 8 where I could feel like I'm doing my job protecting the
 9 public.

10 So, those are the reasons for my decision.
 11 THE DEFENDANT: Do you honestly feel sending me to
 12 prison is going to help me?

13 THE COURT: I do not feel that I can place you on
 14 probation and protect the public. So, for 15 -- for 15
 15 years I will protect the public with you in custody, and
 16 then you can try to convince the parole commission at the
 17 end of that 15 years that you're an acceptable risk to be
 18 put out on parole at that time.

19 Do I think it's going to get you the treatment
 20 that you need?

21 No.
 22 But you've taken that away from me as an option.

23 I don't see a proposal from you to treat you on a retained
 24 followed by extensive treatment in the community.

25 THE DEFENDANT: I've asked for treatment before.

1 I was even --

2 THE COURT: So, we're done.
 3 All right. Anything further on behalf of the
 4 plaintiff?

5 MR. VERHAREN: No, Judge.
 6 THE COURT: On behalf of the defense?
 7 MR. PIERCE: No, Your Honor.
 8 THE COURT: All right.
 9 (Proceedings concluded.)

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 3
 4 I, KIM J. HANNAN, do hereby certify that the
 5 foregoing numbered from 2-66, constitute a true and accurate
 6 transcript of my stenographic notes, taken at said time and
 7 place, all done to the best of my skill and ability.
 8 DATED this 7th day of June, 2017.

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 12 Kim J. Hannan S/S
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