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### State v. Speth Appellant's Brief Dckt. 46060

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	
	)	NO. 46060
Plaintiff-Respondent,	)	
	)	MINIDOKA COUNTY NO. CR-2015-3892
v.	)	
	)	
JESSICA SPETH,	)	APPELLANT'S BRIEF
	)	
Defendant-Appellant.	)	
_____	)	

STATEMENT OF THE CASE

Nature of the Case

Jessica Speth appeals from the district court's order denying her motion to reconsider the district court's order relinquishing jurisdiction. Mindful that the district court did not have the lawful authority to grant the motion, Ms. Speth asserts the district court abused its discretion by denying her motion.

Statement of the Facts & Course of Proceedings

The State filed a criminal complaint charging Ms. Speth with possession of a forged check, and burglary. (R., pp.18-23.) Ms. Speth waived her right to a preliminary hearing, was

bound over into the district court, and an information was filed charging her with the above crimes. (R., pp.27, 33-37.) Pursuant to an agreement with the State, Ms. Speth pled guilty to the possession of a forged check charge, the State dismissed the burglary charge and a separate criminal case, and the parties agreed the district court should withhold judgment and place Ms. Speth on probation. (R., pp.105-07, 112-24.) The district court accepted the plea, withheld judgment, and placed Ms. Speth on probation for a period of four years, to run concurrently with a period of probation Ms. Speth was ordered to serve in a separate case from Twin Falls County.<sup>1</sup> (R., pp.105-11.)

A few months later, Ms. Speth admitted to violating the terms of her probation, the district court revoked probation and the withheld judgment, and sentenced Ms. Speth to a unified term of 8 years, with 3 years fixed, retaining jurisdiction. (R., pp.138-53.) Despite noting that Ms. Speth had done the bare minimum to pass her classes, and that she had some disciplinary issues while on her rider, the Department of Correction recommended the district court place Ms. Speth on probation. (PSI, pp.44-57.)<sup>2</sup> Despite this recommendation, the district court relinquished jurisdiction without a hearing. (R., pp.158-59.) Ms. Speth filed a motion to reconsider the order relinquishing jurisdiction, providing the court with new information about one of Ms. Speth's claimed disciplinary offense reports while on her rider, and providing additional mitigating information. (R., pp.160-190.) Citing to the Idaho Supreme Court's opinion in *State v. Flores*, 162 Idaho 298 (2017), the district court found that it did not have the jurisdiction to reconsider its relinquishment order, and noted that it would not have granted

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<sup>1</sup> The Twin Falls County case is the subject of the appeal filed in Supreme Court docket number 46061.

<sup>2</sup> Citations to the Presentence Investigation Report and its attached documents will use the designation "PSI," and include the page numbers associated with the 57-page electronic file containing those documents.

Ms. Speth's motion, even if it did have the jurisdiction. (Augmentation.)<sup>3</sup> Ms. Speth filed a timely Notice of Appeal. (R., pp.191-93.)

### ISSUE

Did the district court abuse its discretion by denying Ms. Speth's motion to reconsider the court's order relinquishing jurisdiction?

### ARGUMENT

#### The District Court Abused Its Discretion By Denying Ms. Speth's Motion To Reconsider The Court's Order Relinquishing Jurisdiction

In *Flores*, the Idaho Supreme Court held that Idaho Criminal Rule 35 does not grant a district court the authority to reinstate jurisdiction after a district court has relinquished jurisdiction. *Flores*, 162 Idaho at 301-02. In fact, the Court noted that there is no criminal procedural rule in Idaho law that grants a district court such authority. *Id.* at 162, fn.1. Mindful of this authority, Ms. Speth asserts the district court abused its discretion when it denied her request to reconsider its order relinquishing jurisdiction.

Ms. Speth has a history of seizures. (PSI, pp.13-14.) Ms. Speth informed the district court that many of her difficulties while on her rider stemmed from her seizure disorder, including being placed on bunk restriction for much of the time. (R., pp.162-82.) She informed the district court that a disciplinary offense report related to her failure to have on a helmet while having a seizure was dismissed by the warden. (R., pp.165-66; PSI, p.46.) Additionally, Ms. Speth included with her motion copies of multiple certificates of accomplishment she earned while on her rider. (R., pp.183-88.)

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<sup>3</sup> Contemporaneously with this Brief, Ms. Speth filed a motion to augment the record with the district court's Order Denying Motion to Reconsider. The motion to augment is pending.

In light of the information she provided in support of her motion to reconsider, and mindful that the district court lacked jurisdiction to reconsider its decision to relinquish jurisdiction, Ms. Speth asserts the district court abused its discretion by denying her motion to reconsider the court's relinquishment of jurisdiction.

CONCLUSION

Ms. Speth respectfully requests that this Court reverse the district court's order denying her motion to reconsider relinquishment of jurisdiction, and remand her case to the district court for further proceedings.

DATED this 2<sup>nd</sup> day of November, 2018.

/s/ Jason C. Pintler  
JASON C. PINTLER  
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2<sup>nd</sup> day of November, 2018, I caused a true and correct copy of the foregoing APPELLANT'S BRIEF, to be served as follows:

KENNETH K. JORGENSEN  
DEPUTY ATTORNEY GENERAL  
E-Service: ecf@ag.idaho.gov

/s/ Evan A. Smith  
EVAN A. SMITH  
Administrative Assistant

JCP/eas