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### State v. Speth Appellant's Brief Dckt. 46061

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ERIC D. FREDERICKSEN  
State Appellate Public Defender  
I.S.B. #6555

JASON C. PINTLER  
Deputy State Appellate Public Defender  
I.S.B. #6661  
322 E. Front Street, Suite 570  
Boise, Idaho 83702  
Phone: (208) 334-2712  
Fax: (208) 334-2985  
E-mail: documents@sapd.state.id.us

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	
	)	NO. 46061
Plaintiff-Respondent,	)	
	)	TWIN FALLS COUNTY NO. CR42-16-4551
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 an amended criminal complaint charging Ms. Speth with grand theft and malicious injury to property. (R., pp.18-20.) A preliminary hearing was held, Ms. Speth was

bound over into the district court, and an information was filed charging her with the above crimes. (R., pp.26-29, 34-36.) Pursuant to an agreement with the State, Ms. Speth entered an *Alford*<sup>1</sup> plea of guilty to grand theft; in exchange, the State agreed to dismiss the remaining charge and to recommend the district court impose a suspended unified term of 8 years, with 3 years fixed, and to place Ms. Speth on probation for a period of 4 years. (R., pp.48-59.) The district court followed the recommendation of the State and imposed and suspended a unified term of 8 years, with 3 years fixed, and placed Ms. Speth on probation for a period of 4 years. (R., pp.76-91.)

A few months later, Ms. Speth admitted to violating the terms of her probation, the district court revoked probation, executed the sentence, and retained jurisdiction. (R., pp.96-102, 106-12; Tr. p.5, L.11 – p.11, L.4.) Although the Department of Correction noted 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 recommended that the district court place Ms. Speth on probation. (PSI, pp.43-56.)<sup>2</sup> Despite this recommendation, the district court relinquished jurisdiction without a hearing. (R., pp.115-16.) 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.117-48.) 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 jurisdiction to reconsider its

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<sup>1</sup> See *North Carolina v. Alford*, 400 U.S. 25 (1970) (“An individual accused of crime may voluntarily, knowingly, and understandingly consent to the imposition of a prison sentence even if he is unwilling or unable to admit his participation in the acts constituting the crime.”)

<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 56-page electronic file containing those documents.

relinquishment order, and noted that it would not have granted Ms. Speth's motion, even if it did have jurisdiction. (R., pp.151-54.) Ms. Speth filed a timely Notice of Appeal. (R., pp.159-63.)

### 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 motion to reconsider its order relinquishing jurisdiction.

Ms. Speth has a history of seizures. (PSI, pp.14-15.) She 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.120-40.) Ms. Speth informed the district court that a disciplinary offense report related to her failure to wear a helmet while having a seizure was dismissed by the warden. (R., pp.120-23; PSI, p.45.) Additionally, Ms. Speth included with her motion copies of multiple certificates of accomplishment she earned while on her rider. (R., pp.141-46.)

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 30<sup>th</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 30<sup>th</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