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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	Nos. 46065 & 46066
Plaintiff-Respondent,)	
)	Minidoka County Case Nos.
v.)	CR-2017-1752 & CR34-17-3711
)	
PATRICIA ANN POOL,)	
)	RESPONDENT'S BRIEF
Defendant-Appellant.)	
_____)	

Issue

Has Pool failed to establish that the district court abused its discretion by relinquishing jurisdiction?

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

Pool pled guilty to two counts of possession of methamphetamine and the district court imposed concurrent unified sentences of seven years, with four years fixed, and retained jurisdiction. (R., vol.I, pp.31-34, 48-49, 73-76; R., vol.II, pp.14-18, 21-22, 35-38.) Following the period of retained jurisdiction, the district court relinquished jurisdiction. (R., vol.I, pp.78-

80; R., vol.II, pp.39-41.) Pool filed notices of appeal timely from the district court's orders relinquishing jurisdiction. (R., vol.I, pp.83-85; R., vol.II, pp.44-46.)

Pool asserts that the district court abused its discretion by relinquishing jurisdiction in light of her substance abuse and mental health issues, her desire to participate in counseling and treatment, and because she "volunteered twice" and stated that she was "trying 'really hard' to follow the rules." (Appellant's brief, pp.4-5 (quoting PSI, p.73¹)). Pool 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). 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. Hansen, 154 Idaho 882, 889, 303 P.3d 241, 248 (Ct. App. 2013) (citing 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)). A court's decision to relinquish jurisdiction will not be deemed an 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); Hansen, 154 Idaho at 889, 303 P.3d at 248 (citing State v. Statton, 136 Idaho 135, 137, 30 P.3d 290, 292 (2001)).

Pool is not a viable candidate for community supervision. She has been committing crimes and using illegal drugs for more than 30 years and has failed to rehabilitate or be deterred

¹ PSI page numbers correspond with the page numbers of the electronic file "Confidential DocumentsCR2017-1752.pdf."

despite numerous prior treatment opportunities and legal sanctions. (PSI, pp.1, 4-12, 18.) She has previously been afforded many opportunities both on probation and on parole, but repeatedly violated the terms of community supervision, and she was also previously afforded an opportunity to complete the retained jurisdiction program, but was relinquished after having “multiple disciplinary problems” while on her rider. (PSI, pp.10-12.) Additionally, Pool has served several prior prison terms, and even while incarcerated, she refused to abide by institutional rules – during her most recent prison term, she incurred 189 disciplinary/corrective actions “for approximately 41 different rule violations”; consequently, she was not granted parole and topped out her five-year sentence. (PSI, pp.10-12, 22.)

Pool resumed her drug use not long after she was released from prison. (PSI, pp.11, 18.) She was subsequently charged with domestic battery (later amended to disturbing the peace), but failed to appear for sentencing in that case, continued to abuse illegal drugs, and was charged with the new crimes of felony possession of a controlled substance, misdemeanor possession of a controlled substance, possession of drug paraphernalia, and DUI. (PSI, p.9.) Pool was then placed on probation, but violated her probation by being charged with possession of methamphetamine in case number 46065. (PSI, pp.9-10, 12.) While on pretrial release in case number 46065, she repeatedly failed to comply with the conditions of her release and committed the new crime of possession of methamphetamine in case number 46066. (PSI, p.12.)

The presentence investigator determined that Pool presents a high risk to reoffend and recommended a prison sentence, stating:

Due to [Pool’s] ongoing criminal conduct, substance abuse, and history of not abiding by the laws and/or institutional rules, it is believed that she is not a viable candidate for community supervision at this time. It is further believed that she needs to be held accountable with a period of incarceration for ongoing criminal conduct which includes three present felonies for Possession of a Controlled Substance.

(PSI, p.22.) The district court instead granted Pool another opportunity to successfully complete a period of retained jurisdiction, and Pool performed abysmally. True to form, Pool refused to abide by institutional rules while on her rider, incurring nine corrective actions and three DOR's within less than two months. (PSI, pp.69, 71.) She failed to complete any of her rider programming, and her facilitator reported that Pool "did not seem to grasp the concepts of the skills presented, and did not seem willing to improve on her understanding." (PSI, pp.70-72.) Rider staff recommended that the district court relinquish jurisdiction, advising:

Ms. Pool has demonstrated a pattern of not following the rules, which began upon arrival at the SBWCC-RDU and prior to moving to the SICI-PRC. On multiple occasions, her behaviors were addressed by staff and support personnel and she did not appear to make any genuine efforts to correct them. Ms. Pool was subsequently placed on a behavior contract on 4/5/2018 and received 2 more corrective actions (post contract implementation) to include a Class B DOR. The Class B DOR received on 5/2/2018 is concerning as this was an escalation from the previous Class C DOR's she received on 3/16/2018 and 3/28/2018. ... Due to her apparent inability to follow the rules at the SICI-PRC, there appears to be no reason to believe that she can follow the rules on supervision.

(PSI, p.73 (parenthetical notation original).)

Pool is clearly not a suitable candidate for probation, as demonstrated by her ongoing disregard for the law, institutional rules, and the conditions of community supervision. The district court's decision to relinquish jurisdiction was appropriate, particularly in light of Pool's entrenched criminal thinking and refusal to abide by the rules, her high risk to reoffend, and her failure to rehabilitate or be deterred despite numerous prior treatment opportunities and legal sanctions. Given any reasonable view of the facts, Pool has failed to establish an abuse of discretion.

Conclusion

The state respectfully requests this Court to affirm the district court's order relinquishing jurisdiction.

DATED this 17th day of January, 2019.

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

VICTORIA RUTLEDGE
Paralegal

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 17th day of January, 2019, served a true and correct copy of the attached RESPONDENT'S BRIEF to the attorney listed below by means of iCourt File and Serve:

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/s/ Lori A. Fleming
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