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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 46168-2018
Plaintiff-Respondent,)	
)	Minidoka County Case No. CR-2016-
v.)	440
)	
TIFFANEY D. CAMPBELL,)	
)	RESPONDENT’S BRIEF
Defendant-Appellant.)	
_____)	

Has Tiffany D. Campbell failed to show that the district court abused its discretion when it revoked her probation?

ARGUMENT

Campbell Has Failed Show That The District Court Abused Its Discretion When It Revoked Her Probation

A. Introduction

Campbell repeatedly engaged in sexual intercourse with a 13-year-old victim while the two were living in the Domestic Violence Shelter for Women in Rupert. (PSI, p. 3.) The state charged Campbell with four counts of lewd conduct with a child under the age of 16. (R., pp. 29-32.)

Pursuant to a plea agreement, Campbell pled guilty to a reduced charge of sexual abuse of a child under 16 and the remaining charges were dismissed. (R., pp. 66-68, 83-88.) The district court imposed a sentence of five years with two years determinate and retained jurisdiction. (R., pp. 78-81.)

During the retained jurisdiction the district court suspended the sentence and placed Campbell on probation. (R., pp. 104-05.) Less than three months later the state moved to revoke Campbell's probation. (R., pp. 111-12.) The grounds for the motion were that Campbell had absconded by moving from her apartment, left her job, failed to attend her treatment programs, and her whereabouts were unknown. (R., pp. 114-15.)

Campbell was arrested in Oregon and brought before the court about a year later. (R., pp. 118, 120, 122-23.) She admitted violating her probation. (R., p. 125; Tr., p. 7, L. 6 – p. 9, L. 20.) The district court revoked Campbell's probation and executed her sentence. (R., pp. 127-28.) Campbell filed a timely notice of appeal. (R., pp. 136-37.) On appeal she argues that the district court abused its discretion by not retaining jurisdiction a second time. (Appellant's brief, pp. 4-5.) Because the district court found that probation would not protect the community, a finding Campbell does not challenge on appeal, Campbell has failed to show an abuse of discretion.

B. Standard Of Review

“Review of a probation revocation proceeding involves a two-step analysis. First, it is determined whether the terms of probation have been violated. If they have, it is then determined whether the violation justifies revocation of the probation.” State v. Garner, 161 Idaho 708, 710, 390 P.3d 434, 436 (2017) (citations omitted). “A court's finding that a [probation] violation has been proved will be upheld on appeal if there is substantial evidence in the record to support the finding.” State v. Knutsen, 138 Idaho 918, 923, 71 P.3d 1065, 1070 (Ct. App. 2003). “Once a

probation violation has been proven, the decision of whether to revoke probation is within the sound discretion of the court.” State v. Le Veque, 164 Idaho 110, 426 P.3d 461, 464 (2018) (quoting State v. Rose, 144 Idaho 762, 765, 171 P.3d 253, 256 (2007)). “When a trial court’s discretionary decision is reviewed on appeal, the appellate court conducts a multi-tiered inquiry to determine whether the lower court correctly perceived the issue as one of discretion, acted within the boundaries of such discretion and consistently with any legal standards applicable to the specific choices before it, and reached its decision by an exercise of reason.” State v. Clausen, 163 Idaho 180, 182, 408 P.3d 935, 937 (Ct. App. 2017).

C. Campbell Has Shown No Abuse Of The District Court’s Discretion

It is within the trial court's discretion to revoke probation if any of the terms and conditions of the probation have been violated. I.C. §§ 19-2603, 20-222; State v. Beckett, 122 Idaho 324, 325, 834 P.2d 326, 327 (Ct. App. 1992); State v. Adams, 115 Idaho 1053, 1054, 772 P.2d 260, 261 (Ct. App. 1989); State v. Hass, 114 Idaho 554, 558, 758 P.2d 713, 717 (Ct. App. 1988). In determining whether to revoke probation a court must examine whether the probation is achieving the goal of rehabilitation and consistent with the protection of society. State v. Upton, 127 Idaho 274, 275, 899 P.2d 984, 985 (Ct. App. 1995); Beckett, 122 Idaho at 325, 834 P.2d at 327; Hass, 114 Idaho at 558, 758 P.2d at 717. The court may, after a probation violation has been established, order that the suspended sentence be executed or, in the alternative, the court is authorized under I.C.R. 35 to reduce the sentence. Beckett, 122 Idaho at 325, 834 P.2d at 327; State v. Marks, 116 Idaho 976, 977, 783 P.2d 315, 316 (Ct. App. 1989). The court may also order a period of retained jurisdiction. I.C. § 19-2601.

The district court applied the correct legal standards to the discretionary decision before it. (Tr., p. 15, L. 25 – p. 16, L. 4.) The district court concluded that probation was not protecting

society because Campbell was not motivated to address her sexual conduct through treatment. (Tr., p. 16, L. 5 – p. 18, L. 24.) Because a court has discretion to revoke a probation that is not protecting the community, the district court did not abuse its discretion.

On appeal Campbell relies upon her statement to the court at the disposition hearing indicating that she accepted responsibility and wished to get assistance in rehabilitating. (Appellant’s brief, pp. 3-5.) However, the district court considered her statement, treated it as sincere, but on balance concluded that the protection of society demanded executing the sentence. (Tr., p. 16, L. 5 – p. 18, L. 24.) Despite receiving the benefit of retained jurisdiction and its programming and evaluation Campbell absconded probation and fled the state less than three months into her probation. (R., pp. 114-17.) Campbell has failed to show that the district court abused its discretion when it determined that protection of society required execution of the sentence rather than a second retained jurisdiction.

CONCLUSION

The state respectfully requests this Court to affirm the judgment of the district court.

DATED this 16th day of April, 2019.

/s/ Kenneth K. Jorgensen

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Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 16th day of April, 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:

JUSTIN M. CURTIS
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/s/ Kenneth K. Jorgensen
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