

Uldaho Law

Digital Commons @ Uldaho Law

Not Reported

Idaho Supreme Court Records & Briefs

4-30-2019

State v. Doyle Appellant's Brief Dckt. 46653

Follow this and additional works at: https://digitalcommons.law.uidaho.edu/not_reported

Recommended Citation

"State v. Doyle Appellant's Brief Dckt. 46653" (2019). *Not Reported*. 5761.
https://digitalcommons.law.uidaho.edu/not_reported/5761

This Court Document is brought to you for free and open access by the Idaho Supreme Court Records & Briefs at Digital Commons @ Uldaho Law. It has been accepted for inclusion in Not Reported by an authorized administrator of Digital Commons @ Uldaho Law. For more information, please contact annablaine@uidaho.edu.

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

JENNY C. SWINFORD
Deputy State Appellate Public Defender
I.S.B. #9263
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,)	
)	
Plaintiff-Respondent,)	NO. 46653-2019
)	
v.)	ELMORE COUNTY NO. CR-2010-3020
)	
ROBERT EDWARD LEE DOYLE SR.,)	
)	APPELLANT’S BRIEF
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Robert Doyle, Sr., appeals from district court’s order revoking his probation. He argues the district court abused its discretion in its probation disposition decision.

Statement of Facts and Course of Proceedings

In 2011, Mr. Doyle pled guilty to delivery of a controlled substance. (R., pp.38–39.) The district court sentenced Mr. Doyle to fifteen years, with three years fixed, suspended the sentence, and placed him on probation for ten years. (R., pp.52–56, 58–64.) In 2012, after Mr. Doyle admitted to violating his probation, the district court revoked his probation and

retained jurisdiction (“a rider”). (R., pp.103–04, 110–11, 112–13.) At the rider review hearing in March 2013, the district court reinstated Mr. Doyle on probation. (R., pp.115–16, 117–18.)

About five years later, in April 2018, the State moved for a warrant for probation violations. (R., pp.126–28.) The State alleged Mr. Doyle used controlled substances and failed to report for drug testing. (R., pp.127–28.) In September 2018, Mr. Doyle admitted to these violations. (R., p.197; Tr., p.11, L3–p.12, L.13.) The district court held a disposition hearing in November 2018. (R., pp.199–200.) The State recommended the district court impose the fifteen-year sentence. (Tr., p.18, Ls.15–17.) Mr. Doyle requested the district court retain jurisdiction again. (Tr., p.20, Ls.24–25.) The district court agreed and retained jurisdiction. (Tr., p.23, Ls.1–3.) Mr. Doyle timely appealed from the district court’s order of revocation, imposition of sentence, and order retaining jurisdiction. (R., pp.201–03, 205–07.)

ISSUE

Mindful that Mr. Doyle received his requested disposition, did the district court abuse its discretion by revoking his probation?

ARGUMENT

Mindful That Mr. Doyle Received His Requested Disposition, The District Court Abused Its Discretion By Revoking His Probation

The district court is empowered by statute to revoke a defendant’s probation under certain circumstances. I.C. §§ 19-2602, -2603, 20-222. The Court uses a two-step analysis to review a probation revocation proceeding. *State v. Sanchez*, 149 Idaho 102, 105 (2009). First, the Court determines “whether the defendant violated the terms of his probation.” *Id.* Second, “[i]f it is determined that the defendant has in fact violated the terms of his probation,” the Court

examines “what should be the consequences of that violation.” *Id.* The determination of a probation violation and the determination of the consequences, if any, are separate analyses. *Id.*

Here, Mr. Doyle does not challenge his admissions to violating his probation. (Tr., p.11, L3–p.12, L.13.) “When a probationer admits to a direct violation of her probation agreement, no further inquiry into the question is required.” *State v. Peterson*, 123 Idaho 49, 50 (Ct. App. 1992). Rather, Mr. Doyle submits that the district court abused its discretion by revoking his probation, even though he was placed on a rider as requested.

“After a probation violation has been proven, the decision to revoke probation and pronounce sentence lies within the sound discretion of the trial court.” *State v. Roy*, 113 Idaho 388, 392 (Ct. App. 1987). “A judge cannot revoke probation arbitrarily,” however. *State v. Lee*, 116 Idaho 38, 40 (Ct. App. 1989). “The purpose of probation is to give the defendant an opportunity to be rehabilitated under proper control and supervision.” *State v. Mummert*, 98 Idaho 452, 454 (1977). “In determining whether to revoke probation a court must consider whether probation is meeting the objective of rehabilitation while also providing adequate protection for society.” *State v. Upton*, 127 Idaho 274, 275 (Ct. App. 1995). The court may consider the defendant’s conduct before and during probation. *Roy*, 113 Idaho at 392. The district court’s decision to retain jurisdiction is also reviewed for an abuse of discretion. *State v. Jones*, 141 Idaho 673, 677 (Ct. App. 2005).

Although the district court retained jurisdiction as Mr. Doyle requested, he nonetheless maintains the district court erred by revoking his probation. Mr. Doyle had some setbacks, but he demonstrated to the district court that he could succeed in the community under proper supervision. Mr. Doyle’s probation violations were solely attributable to his relapse and drug use. (Presentence Investigation Report (“PSI”), pp.4–5.) Sadly, Mr. Doyle, age forty-eight, has

struggled with drug addiction for most of his adult life. (PSI, pp.18–19.) Most recently, Mr. Doyle was using methamphetamine and marijuana. (PSI, pp.18–19.) He felt “embarrassed” by his relapse. (PSI, p.19.) He explained, “It was just when I was high I didn’t want anybody to see me. I don’t want anybody to see the way I looked. I was more ashamed of myself for using drugs than not going to these classes.” (Tr., p.21, Ls.15–18.) Along with his substance abuse issues, Mr. Doyle has significant mental health issues. He has been diagnosed with paranoid schizophrenia, anxiety, and depression. (PSI, p.18.) He fully acknowledged, however, that stopping his medication led to his relapse. (PSI, p.20.) Now sober and back on his medication, Mr. Doyle hoped to stay sober, find a stable residence, go to counseling, and see his family every week. (PSI, p.20.) Mr. Doyle was “glad this happened” so he could reflect on his choices. (PSI, p.21.) He wanted to go to counseling multiple times per week. (PSI, pp.20–21.) As stated at the disposition hearing, Mr. Doyle “needed to take m[y] time to sober up like I have now and realize I can go back and still fight for my sobriety.” (Tr., p.21, Ls.12–15.) He also explained, “And medication finally I am stable on my meds. That I can now actually think for myself and not feel bad. Not resent everything around me. It is just I got off my meds, I got lost.” (Tr., p.21, L.24–p.22, L.4.) He was “tired” of his past decisions and ready to focus on his sobriety. (Tr., p.21, Ls.19–21, p.22, Ls.4–6.) Ultimately, Mr. Doyle was committed to treatment and counseling for his substance abuse and mental health issues. This information shows, despite his relapse, Mr. Doyle’s probation was achieving its rehabilitative objective. Therefore, the district court did not exercise reason and thus abused its discretion by revoking Mr. Doyle’s probation and retaining jurisdiction, even though Mr. Doyle requested this relief.

CONCLUSION

Mr. Doyle respectfully requests this Court vacate the district court's order of revocation, imposition of sentence, and order retaining jurisdiction and remand this case for a new disposition hearing.

DATED this 30th day of April, 2019.

/s/ Jenny C. Swinford
JENNY C. SWINFORD
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of April, 2019, 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

JCS/eas