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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	
	)	NO. 46653-2019
Plaintiff-Respondent,	)	
	)	Elmore County Case No.
v.	)	CR-2010-3020
	)	
ROBERT EDWARD LEE DOYLE,	)	
	)	RESPONDENT'S BRIEF
Defendant-Appellant.	)	
_____	)	

Issue

Is Doyle's sentencing challenge barred by the doctrine of invited error?

Doyle's Sentencing Challenge Is Barred By The Doctrine Of Invited Error

In June 2010, a grand jury indicted Doyle for two counts of delivery of methamphetamine and one count of delivery of marijuana. (R., pp.17-18.) Pursuant to a plea agreement, Doyle pled guilty to one count of delivery of methamphetamine and the state agreed to dismiss the remaining charges, to "not file a persistent violator enhancement or a persistent

narcotics violator enhancement,” and to recommend a unified sentence of 15 years, with three years fixed, with a period of retained jurisdiction. (R., pp.38-39, 44.) The district court imposed a unified sentence of 15 years, with three years fixed, suspended the sentence, and placed Doyle on supervised probation for 10 years. (R., pp.58-65.)

After Doyle violated his probation, the district court revoked his probation, executed the underlying sentence, and retained jurisdiction. (R., pp.112-14.) Following the period of retained jurisdiction, the district court suspended Doyle’s sentence and reinstated him on supervised probation. (R., pp.117-24.) Doyle subsequently violated his probation a second time, and the district court again revoked his probation, executed the underlying sentence, and retained jurisdiction. (R., pp.201-04.) Doyle filed a notice of appeal timely from the district court’s November 20, 2018 order revoking probation and retaining jurisdiction. (R., pp.205-08.)

Mindful that “the district court retained jurisdiction as [he] requested,” Doyle nevertheless asserts that the district court abused its discretion by revoking his probation and retaining jurisdiction, in light of his substance abuse, mental health issues, and willingness to participate in treatment. (Appellant’s brief, pp.2-4.) Doyle’s claim of an abuse of sentencing discretion is barred by the doctrine of invited error.

A party is estopped, under the doctrine of invited error, from complaining that a ruling or action of the trial court that the party invited, consented to or acquiesced in was error. State v. Castrejon, 163 Idaho 19, 21, 407 P.3d 606, 608 (Ct. App. 2017) (review denied Jan. 4, 2018) (citations omitted). This doctrine applies to sentencing decisions as well as to rulings during trial. Id. The purpose of the invited error doctrine is to prevent a party who caused or played an important role in prompting a trial court to take a certain action from later challenging that action

on appeal. Id. at 22, 407 P.3d at 609 (citing State v. Blake, 133 Idaho 237, 240, 985 P.2d 117, 120 (1999)).

On appeal, Doyle acknowledges that, at the disposition hearing for his second probation violation, he requested a rider and “the district court retained jurisdiction as [he] requested.” (Appellant’s brief, p.3; 11/5/18 Tr., p.20, L.24 – p.21, L.4.) Because Doyle requested that the district court retain jurisdiction, he cannot claim on appeal that the district court abused its discretion when it did exactly that. Therefore, Doyle’s claim of an abuse of sentencing discretion is barred by the doctrine of invited error and the district court’s November 20, 2018 order revoking Doyle’s probation and retaining jurisdiction should be affirmed.

#### Conclusion

The state respectfully requests this Court to affirm the district court’s order revoking Doyle’s probation.

DATED this 24th day of May, 2019.

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

VICTORIA RUTLEDGE  
Paralegal

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 24th day of May, 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:

JENNY C. SWINFORD  
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/s/ Lori A. Fleming  
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