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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 46684-2019
Plaintiff-Respondent,)	
)	BOUNDARY COUNTY NO. CR-2017-1136
v.)	
)	
KYLE A. FULLER,)	APPELLANT'S BRIEF
)	
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Kyle Fuller pled guilty to possession of methamphetamine, was sentenced to a unified term of four years, with two years fixed, and was initially placed on probation. After violating the terms of his probation, having his probation revoked, and being sent on a rider, the district court relinquished jurisdiction. Mr. Fuller asserts that the district court abused its discretion by relinquishing jurisdiction, in light of the mitigating factors that exist in his case.

Statement of the Facts & Course of Proceedings

The State filed a criminal complaint alleging Mr. Fuller committed the crimes of possession of methamphetamine and petit theft by possession of stolen property, and he was further alleged to be a persistent violator. (R., pp.12-14.) Mr. Fuller waived his right to a preliminary hearing, was bound over into the district court, and an information was filed charging him with possession of methamphetamine and transferring a stolen vehicle,¹ as well as alleging a persistent violator enhancement. (R., pp.20-26.) Mr. Fuller entered into a plea agreement with the State, pleading guilty to possession of methamphetamine; in exchange, the State dismissed the remaining charge and the sentencing enhancement, and agreed to recommend retained jurisdiction, with an underlying sentence to run consecutively to any other sentence imposed. (R., pp.32-42.) The district court sentenced Mr. Fuller to a unified term of four years, with two years fixed, to run consecutively to sentences imposed in separate cases from Bonner County, and the district court suspended the sentence and placed Mr. Fuller on probation. (R., pp.45-54.)

A week later, the State filed a report of probation violations, alleging that Mr. Fuller violated the terms of his probation in a variety of ways. (R., pp.57-64; Tr. 5/29/18, p.17, L.23 – p.22, L.14.) Mr. Fuller admitted to violating the terms of his probation by committing the crime of trespassing, failing to report to probation and parole, failing to provide his probation officer with his address, failing to contact a treatment provider, failing to appear for a scheduled urine analysis, failing to provide a urine sample, and testing positive for controlled substances.

¹ The prosecutor later acknowledged that the transferring a stolen vehicle charge should not have been included in the information, as it was not alleged in the criminal complaint. (R., pp.32-33.) In any event, the second charge was dismissed as part of a plea agreement, and no issues related to this error are raised in this appeal. (R., pp.32-42.)

(R., pp.72-74; Tr. 7/9/18, p.7, L.4 – p.9, L.6.) The district court revoked Mr. Fuller’s probation and retained jurisdiction. (R., pp.75-77; Tr. 7/9/18, p.14, L.2 – p.15, L.2.) Five months later, the district court received a letter from the Department of Correction recommending that the court relinquish jurisdiction. (PSI, p.39.)² During the rider review hearing, counsel for Mr. Fuller asked the district court for “another retained rider.”³ (Tr. 12/20/18, p.8, Ls.13-18.) Instead, the district court relinquished jurisdiction. (R., pp.87-89; Tr. 12/20/18, p.12, Ls.3-6.) Mr. Fuller filed a timely Notice of Appeal. (R., pp.92-94.)

ISSUE

Did the district court abuse its discretion by relinquishing jurisdiction, in light of the mitigating factors that exist in this case?

ARGUMENT

In Light Of The Mitigating Factors That Exist In This Case, The District Court Abused Its Discretion By Relinquishing Jurisdiction

Mr. Fuller asserts that the district court abused its discretion by relinquishing jurisdiction in his case. Sentencing decisions, including decisions regarding whether to retain or relinquish jurisdiction, are left to the sound discretion of the district court, and are reviewed on appeal under the well-established abuse of discretion standard. The governing criteria or objectives of

² Citations to the Presentence Investigation Report and its attached documents will use the designation “PSI,” and will include the page numbers associated with the 58-page electronic file containing those documents.

³ After counsel for Mr. Fuller made this request, the district court stated, “[a]nd when I retain jurisdiction, I have jurisdiction for one year, to retain jurisdiction, there’s not even time for you to complete another rider even if I were so inclined.” (Tr. 12/20/18, p.11, Ls.8-11.) It appears, therefore, that the district court did not consider counsel’s request to be for a second rider with no intervening period of probation, which is not allowed pursuant to I.C. § 19-2601(4), but rather a request for the court to continue retaining jurisdiction in order allow Mr. Fuller to continue programming.

criminal punishment are: (1) protection of society; (2) deterrence of the individual and the public generally; (3) the possibility of rehabilitation; and (4) punishment or retribution for wrongdoing.

The Department of Correction informed the court that Mr. Fuller had been receiving mental health treatment while on his rider. (PSI, p.44.) As noted by his counsel during the rider review hearing, there was no evidence in the record about the extent of Mr. Fuller's mental health problems or the role those issues played in "his behavior or his resistance of treatment." (Tr. 12/20/18, p.7, Ls.14-19.) Counsel asserted "[t]he question is how serious[ly] was his mental health considered, or did the program just try to fit him in with the rest of the classes," and counsel argued that additional time in the retained jurisdiction program would be useful so that his mental health issues could be considered. (Tr. 12/20/18, p.7, L.20 – p.8, L.18.)

Idaho Courts recognized that a defendant's mental health issues should be considered as a mitigating factor by a court when making sentencing determinations. *See, e.g., Hollon v. State*, 132 Idaho 573 (1999). In light of the mitigating factors that exist in this case, Mr. Fuller asserts the district court abused its discretion by relinquishing jurisdiction.

CONCLUSION

Mr. Fuller respectfully requests that this Court remand his case to the district court with instructions that the court retain jurisdiction, or for whatever other relief this court deems appropriate.

DATED this 24th day of July, 2019.

/s/ Jason C. Pintler
JASON C. PINTLER
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of July, 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

JCP/eas