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### State v. Quaintance Appellant's Brief Dckt. 46932

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	
	)	
Plaintiff-Respondent,	)	NO. 46932-2019
	)	
v.	)	TWIN FALLS COUNTY
	)	NO. CR42-17-3754
AMY ANN QUAINANCE,	)	
	)	APPELLANT'S BRIEF
Defendant-Appellant.	)	
_____	)	

STATEMENT OF THE CASE

Nature of the Case

Amy A. Quaintance was on probation for three years for possession of a controlled substance. After she admitted to violating her probation, the district court revoked her probation and imposed her sentence of seven years, with three years fixed. Ms. Quaintance appeals, and she argues the district court abused its discretion by revoking her probation.

Statement of Facts and Course of Proceedings

In April 2017, the State filed a criminal complaint alleging Ms. Quaintance committed the crime of possession of a controlled substance, methamphetamine. (R., pp.12–13.) Ms. Quaintance waived a preliminary hearing, and the magistrate bound her over to district

court. (R., p.17.) The State charged her by Information with possession of a controlled substance and possession of drug paraphernalia. (R., pp.19–20.) Pursuant to plea agreement, Ms. Quaintance pled guilty to possession of a controlled substance, and the other charge was dismissed. (R., pp.30, 40, 41–42, 44.) The parties stipulated to a sentence of seven years, with three years fixed, and a period of retained jurisdiction (“a rider”). (R., p.40.) In June 2017, the district court followed the stipulation and sentenced Ms. Quaintance to seven years, with three years fixed, and a rider. (R., pp.46, 47–53.)

In March 2018, the district court held a rider review hearing. (R., p.56.) The district court placed Ms. Quaintance on probation for three years. (R., pp.56, 57–61.)

In late August 2018, the State moved to revoke Ms. Quaintance’s probation. (R., pp.70–71.) The State alleged Ms. Quaintance failed to be available for supervision or absconded. (R., p.71; *see also* R., pp.72–75.) Ms. Quaintance admitted to the violation. (Tr. Vol. I,<sup>1</sup> p.6, L.22–p.7, L.24; R., p.87.)

Before the disposition hearing, Ms. Quaintance was deemed eligible for drug court. (R., p.101.) Ms. Quaintance was also on parole at the time of the instant offense, and the parole board agreed to her participation in drug court. (Presentence Investigation Report (“PSI”),<sup>2</sup> p.18.) At the disposition hearing, in February 2019, the State recommended the district court revoke Ms. Quaintance’s probation and impose her seven-year sentence. (Tr. Vol. II, p.4, Ls.6–7.) Ms. Quaintance requested the district court order her to participate in drug court. (Tr. Vol. II, p.5,

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<sup>1</sup> There are two transcripts on appeal. The first, cited as Volume I, contains the admit/deny hearing, held on November 20, 2018. The second, cited as Volume II, contains the probation violation disposition hearing, held on February 19, 2019.

<sup>2</sup> Citations to the PSI refer to the eighteen-page electronic document with the confidential exhibits.

Ls.19–21.) The district court revoked her probation and imposed her sentence of seven years, with three years fixed. (Tr. Vol. II, p.10, Ls.3–4.)

Ms. Quaintance timely appealed from the district court’s order revoking her probation. (R., pp.106–09, 114–16.)

### ISSUE

Did the district court abuse its discretion when it revoked Ms. Quaintance’s probation and executed her underlying sentence of seven years, with three years fixed?

### ARGUMENT

#### The District Court Abused Its Discretion When It Revoked Ms. Quaintance’s Probation And Executed Her Underlying Sentence Of Seven Years, With Three Years Fixed

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, Ms. Quaintance does not challenge her admission to violating her probation. (Tr. Vol. I, p.6, L.22–p.7, L.24; R., p.87.) “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, Ms. Quaintance submits the district court did not exercise reason and thus abused its discretion by revoking her probation.

“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.

In this case, Ms. Quaintance submits the district court did not exercise reason by revoking her probation because her probation was achieving its rehabilitative objective, especially in light of her acceptance to drug court. Ms. Quaintance recognized her addiction problem, and she understood she had a “difficult life” because of her addiction. (Tr. Vol. II, p.7, Ls.20–21.) She first used marijuana at age eight. (Tr. Vol. II, p.7, Ls.21–23.) Her “behaviors and beliefs” were “unhealthy and chaotic,” “not realizing and understanding that [she] was creating patterns of destruction that ultimately would lead [her] into the seemingly endless cycle of addiction.” (Tr. Vol. II, p.7, L.24–p.25, L.3.) Ms. Quaintance obtained her first charge in 2003 for drug possession. (Tr. Vol. II, p.8, Ls.24–25.) The instant offense was her second charge and also for drug possession. (Tr. Vol. II, p.8, L.25–p.9, L.2.) Thus, Ms. Quaintance’s two criminal offenses were directly attributable to her drug addiction.

Despite her addiction, Ms. Quaintance succeeded on the rider program. (PSI, pp.4–6.) She found experience to be “eye opening,” and she appreciated the “opportunity for self-help.”

(PSI, p.6.) Ms. Quaintance also has a very supportive family. (Tr. Vol. II, p.8, Ls.9–15.) At the disposition hearing, she said:

I have an awesome support system. My parents have never given up on me throughout my life. My father has been in recovery for 33 years. My stepmother also is in recovery and works at the Crisis Center as a recovery coach. My mother works a faith-based program. She also is in recovery. She's been a teacher for 22 years. She holds a women's Bible study every week through Amazing Grace Fellowship.

(Tr. Vol. II, p.8, Ls.9–15.) Her mother also wrote a letter in support, explaining Ms. Quaintance did well “with structure and programming.” (PSI, p.17.) Her mother stated her family loved her and hoped she could get the help she needs. (PSI, p.17.) Ms. Quaintance's mother took care of her fourteen-year-old daughter. (PSI, p.17.) Ms. Quaintance wanted to be there for her daughter. (Tr. Vol. II, p.8, Ls.16–20.)

In light of her family support and rider completion, Ms. Quaintance would have been successful in drug court. Her trial counsel explained the drug court “was and is so successful” because it is a “very strenuous, closely watched, closely monitored, highly participatory program.” (Tr. Vol. II, p.6, Ls.10–11.) Ms. Quaintance also had transitional housing arrangements. (Tr. Vol. II, p.6, Ls.13–17.) In addition, Ms. Quaintance was very amenable to treatment. She believed the drug court program would “give me the structure, stability, and skills that I need to help me work on beliefs and behaviors that will lead me to living successful.” (Tr. Vol. II, p.8, Ls.6–8.) She asked for “another chance at treatment.” (Tr. Vol. II, p.8, Ls.22–23.)

In light of these facts, Ms. Quaintance submits the district court did not exercise reason and thus abused its discretion by revoking her probation. The mitigating factors showed Ms. Quaintance could be successful in the community under proper control and supervision,

namely, drug court. The district court should have reinstated her probation to allow her to participate in this program.

CONCLUSION

Ms. Quaintance respectfully requests this Court vacate the district court's order revoking her probation and remand her case to the district court for a new disposition hearing.

DATED this 26<sup>th</sup> day of July, 2019.

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26<sup>th</sup> 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](mailto:ecf@ag.idaho.gov)

/s/ Evan A. Smith  
EVAN A. SMITH  
Administrative Assistant

JCS/eas