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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 46932-2019
Plaintiff-Respondent,)	
)	Twin Falls County Case No.
v.)	CR-42-17-3754
)	
AMY ANN QUAINANCE,)	RESPONDENT’S BRIEF
)	
Defendant-Appellant.)	
_____)	

Issue

Has Quaintance failed to establish that the district court abused its discretion by revoking her probation?

Quaintance Has Failed To Establish That The District Court Abused Its Discretion

In May 2017, the state charged Quaintance with possession of methamphetamine and possession of drug paraphernalia. (R., pp.19-21.) Pursuant to an I.C.R. 11 plea agreement, Quaintance pled guilty to possession of methamphetamine and the state agreed to dismiss the paraphernalia charge. (R., pp.31-45.) The parties stipulated to a unified seven-year sentence with three years fixed, and a period of retained jurisdiction. (R., p.40.) At the sentencing

hearing, the district court followed the stipulation. (R., pp.46-54.) In March 2018, following the period of retained jurisdiction, the district court suspended the sentence and placed Quaintance on probation for three years. (R., p.56-66.)

Approximately five months later, in August 2018, the state filed a report of probation violation and motion to revoke Quaintance's probation. (R., pp.70-75.) The state alleged that Quaintance violated her probation by: (1) failing to provide documentation that she had completed any ordered community service; (2) failing to submit to required weekly UAs for the previous month; (3) failing to make any required payments towards court costs, fines, and restitution; (4) failing to report to the probation office as ordered on August 7, 2018; (5) moving from the Jubilee House (a Twin Falls residential treatment center) without permission; (6) failing to complete required treatment; (7) absconding from probation and making herself unavailable for supervision; and (8) failing to pay required supervision fees. (R., pp.72-75.) Quaintance admitted to violating her probation by absconding and making herself unavailable for supervision. (R., p.87; 11/20/18 Tr., p.4, L.18 – p.7, L.24.)

The district court followed the recommendations of the state (2/19/19 Tr., p.4, L.6 – p.5, L.15), and the probation officer (R., p.75), revoked Quaintance's probation, and imposed the original sentence (R., pp.103, 114-118; 2/19/19 Tr., p.9, L.6 – p.10, L.7). Quaintance timely appealed. (R., pp.106-110.) On appeal, Quaintance contends that the district court abused its discretion by revoking her probation. (Appellant's brief, pp.3-6.) Specifically, Quaintance argues that the district court erred by not giving her the opportunity to participate in the drug court program, which she met the eligibility requirements for. (Id.; R., pp.101-102; APSI, p.18.)

“Probation is a matter left to the sound discretion of the court.” I.C. § 19-2601(4). The decision whether to revoke a defendant's probation for a violation is within the discretion of the

district court. State v. Garner, 161 Idaho 708, 710, 390 P.3d 434, 436 (2017) (quoting State v. Knutsen, 138 Idaho 918, 923, 71 P.3d 1065, 1070 (Ct. App. 2003)). In determining whether to revoke probation, a court must examine whether the probation is achieving the goal of rehabilitation and is consistent with the protection of society. State v. Cornelison, 154 Idaho 793, 797, 302 P.3d 1066, 1070 (Ct. App. 2013) (citations omitted). A decision to revoke probation will be disturbed on appeal only upon a showing that the trial court abused its discretion. Id. at 798, 302 P.3d at 1071 (citing State v. Beckett, 122 Idaho 324, 326, 834 P.2d 326, 328 (Ct. App. 1992)).

A review of the record in this case shows the district court properly exercised its discretion in concluding Quaintance was no longer an appropriate candidate for probation. Prior to making this determination, the court reviewed the relevant documents, expressly recognized the discretionary nature of its decision and the appropriate factors it was required to consider, and expressly acknowledged Quaintance's addiction and its impact on her failure to comply with the terms of probation. (2/19/19 Tr., p.9, Ls.6-21.)

The court's decision to revoke was justified by Quaintance's complete failure to abide by the terms of her probation, even after completing a period of retained jurisdiction in which she had the opportunity to participate in varied treatment. (APSI, pp.3-6.) At the time the state filed its report of probation violation, Quaintance's probation officer did not even know of her current whereabouts. (R., p.75.) In recommending revocation, the probation officer commented that "[s]ince being placed on supervision, [Quaintance] has demonstrated an unwillingness or inability to abide by the terms and conditions imposed by the Court." (Id.)

Further, while the appellate record does not appear to contain the presentence investigation report associated with Quaintance's underlying conviction in this case (see R.,

p.124), a Twin Falls County Court Compliance Program Review form completed after Quaintance's arrest indicates that she has prior convictions for felony possession of a controlled substance, leaving the scene of an accident, frequenting, and possession of drug paraphernalia. (R., p.15.) She also has three prior probation violations associated with these convictions. (Id.) In light of this record, and the fact that Quaintance was still, at the time of the underlying charge, on parole for her 2003 felony drug possession conviction, the probation officer concluded that Quaintance "shows a very high likelihood to not follow the Court's orders" and would not be a good candidate for the Court Compliance Program. (Id.) Quaintance's subsequent performance on probation proved this concern to be well-founded.

The state referenced these previous failures on probation in making its disposition argument. (2/19/19 Tr., p.4, Ls.6-21.) The state argued that "it would be a shame...to grant [Quaintance] an opportunity to continue in this community after the crimes that she has committed here and the continuation of her violations," and that it "would just show other offenders that there's really no deterrence because you can repeatedly violate both your parole after you have been placed back out in the community by committing new felonies and get probation after probation after probation, even after two periods of retained jurisdiction[], and it's fine." (2/19/19 Tr., p.5, Ls.2-10.) The district court reasonably followed this line of thinking in revoking Quaintance's probation. While Quaintance asserted at the disposition hearing that she was amendable to treatment and able to follow the rules of treatment programs and probation (2/19/19 Tr., p.7, L.17 – p.9, L.3), her demonstrated actions while actually on community supervision do not support these assertions.

The district court considered all of the relevant information and reasonably concluded that Quaintance was no longer a viable candidate for community supervision. The district

court's decision to revoke Quaintance's probation and execute the underlying sentence was appropriate in light of Quaintance's consistent refusal to comply with the conditions of community supervision. Given any reasonable view of the facts, Quaintance has failed to establish an abuse of discretion.

Conclusion

The state respectfully requests this Court to affirm the district court's order revoking Quaintance's probation and imposing the original sentence.

DATED this 11th day of October, 2019.

/s/ Mark W. Olson
MARK W. OLSON
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 11th day of October, 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:

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