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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,)	NO. 46948-2019
)	
v.)	ADA COUNTY NO. CR01-17-36799
)	
WILLIAM ARNOLD RAINS,)	
)	
Defendant-Appellant.)	APPELLANT’S BRIEF
_____)	

STATEMENT OF THE CASE

Nature of the Case

The district court placed William A. Rains on probation for felony domestic battery. About four months later, the district court revoked his probation, executed imposition of his six-year sentence, and retained jurisdiction (“a rider”). At a rider review hearing, the district court relinquished jurisdiction. Mr. Rains now appeals, and he argues the district court abused its discretion by relinquishing jurisdiction.

Statement of Facts and Course of Proceedings

In February 2018, Mr. Rains pled guilty to felony domestic battery. (R., pp.50–51, 60–61.) About one month later, the district court placed him on probation, with an underlying

sentence of six years, with two years fixed. (R., pp.68–69, 70–73.) In July 2018, the State moved for a probation violation. (R., pp.92–93, 95–98.) Mr. Rains admitted to violating his probation for not following by his probation officer’s requests not to associate with a certain person (his girlfriend)¹ and using marijuana. (R., pp.101–02.) In September 2018, the district court revoked Mr. Rains’s probation, executed imposition of the sentence, and retained jurisdiction (“a rider”). (R., pp.106, 107–08.)

In January 2019, the State moved to relinquish jurisdiction because Mr. Rains continued to have contact with his girlfriend. (R., pp.113–117.) The district court requested a progress report from the rider. (R., p.159.) The Idaho Department of Correction (“IDOC”) reported that his progress was “as expected”—Mr. Rains had three written warnings, but his instructors had positive comments on attitude and performance in the program. (R., p.161.) Mr. Rains also created a pre-release plan and was actively looking for housing. (R., p.161.) Upon receipt of the progress report, the district court did not take any action on the State’s motion. (Tr.,² p.15, Ls.11–14) Then, in April 2019, the district court held a rider review hearing. (*See generally* Tr., pp.15–23.) The State argued for relinquishment, and Mr. Rains and the IDOC recommended probation. (Tr., p.18, Ls.4–5, p.18, Ls.13–14; PSI, p.167.) The district court agreed with the State and relinquished jurisdiction. (Tr., p.20, Ls.10–11; R., p.171.) Mr. Rains timely appealed from the district court’s judgment and order relinquishing jurisdiction. (R., pp.172–73, 175–76.)

¹ His girlfriend was not the victim of the instant offense. (Presentence Investigation Report (“PSI”), pp.3, 8–9.) Citations to the PSI refer to the 181-page electronic document with the confidential exhibits.

² The transcript consists of the probation violation disposition hearing and the rider review hearing. It does not have page or line numbers. Undersigned counsel has counted the page and line numbers to provide citations.

ISSUE

Did the district court abuse its discretion by relinquishing jurisdiction?

ARGUMENT

The District Court Abused Its Discretion By Relinquishing Jurisdiction

The district court's decision whether to retain jurisdiction and place the defendant on probation or relinquish jurisdiction is reviewed for an abuse of discretion. *State v. Brunet*, 155 Idaho 724, 729 (2013); *see also* I.C. § 19-2601(4). "A court's decision to relinquish jurisdiction will not be deemed an abuse of discretion if the trial court has sufficient information to determine that a suspended sentence and probation would be inappropriate." *State v. Hansen*, 154 Idaho 882, 889 (Ct. App. 2013).

Here, the district court did not exercise reason and thus abused its discretion by relinquishing jurisdiction. The district court had sufficient information to show that Mr. Rains was an appropriate candidate for probation. Although Mr. Rains had contact with his girlfriend at the start of the rider, he told the district court at the rider review hearing that he stopped having contact with her once he learned it was not allowed in January 2019. (Tr., p.19, Ls.18–21.) He further explained that he would no longer rely on his girlfriend for transportation if released. (Tr., p.20, Ls.3–8.) In addition, the IDOC recommended probation, and Mr. Rains did very well on the rider. (PSI, p.167.) For example, he completed Aggression Replacement Training ("ART") and the pre-release program. (PSI, p.169.) The ART instructor gave a positive assessment of Mr. Rains's participation in the program. The ART instructor wrote:

Mr. Rains came to . . . ART . . . , with a positive attitude, and maintained this throughout the class. He was not afraid to interact with the group and regularly started dialog about issues that he was passionate about. He is a deep thinker and he put serious thought into his presentations with the group. He was calm and collect and all his interactions were intelligent which made him come across as

confident about his beliefs and feelings which helped him develop and express his pro-social attitudes. Mr. Rains had no problem defining instances of anger and used the anger control sequence to remain in control of his emotions and not act out impulsively. He maintained a good work ethic throughout his time in ART and made a decisive effort to apply his learning to ongoing issues that he faced on the unit each day. His commitment was evident in his willingness to challenge his personal attitudes and beliefs using the course materials through-out the program. There was not a time during the class that he didn't demonstrate commitment to the anger control curriculum and his hassle logs represented his dedication to the process. He openly challenged himself when it came to facing any and all situations that previously would arouse his anger and have negative outcomes. He had no difficulty adapting the anger control sequence, and presented pro-social solutions that were well thought-out addressing his own anger issues. Mr. Rains has been able to build the skill base of knowledge that he can draw from when his anger is aroused. There was evidence that he had a good control of the skill freezing after an anger arousal occurred and that he was able to work through the process in his head, capturing his thoughts and processing them to make sure his response was a pro-social one. His moral recognition skills improved throughout the program, and he worked hard to understand how moral outcomes not only affects him, but others who are involved in the situations. His ability to adapt in the area of his moral recognition allowed him to explore his real feelings and what underline attitudes and beliefs that controlled his thought pattern. He does have fostered opinions that have influenced his believes and contributed to the way he reacts to anger, but he identified this and is willing to take responsibility to challenge them and take control of how they affect him. Mr. Rains did a good job of navigating himself through the anger replacement training, he made a conscious effort to gain the knowledge, attitude and skills for his own developmental needs. He demonstrated his understanding of different ways he can cope with his own and other peoples anger, improved his ability to navigate stressful situations, and remain in control of his behavior.

(PSI, pp.170–71.) In the pre-release program, Mr. Rains had similar success. The instructor wrote:

In Pre-release, Mr. Rains was consistently engaged in class and participated in all class discussions and activities. He maintained an open and receptive approach to the course during the entirety of the program and completed assignments in a timely manner. Mr. Rains clearly understood all material presented, which was reflected in his homework and input during class discussions. In the chapter that covers education, Mr. Rains noted that offenders who participate in education programs are less likely to return to prison within three years of release and there are a lot of resources for felons who want to continue their education. In the chapter that reviews communication, Mr. Rains gained understanding how behavior effects every aspect of your life and the importance of communicating effectively with others. After engaging in discussions about money, he showed

great interest in learning how to protect his identity, maintain a good FICA and credit score as well as how to budget, pay bills, and complete W-4 and I-9 documents. During the lessons about appropriate housing options he contributed to the class discussion based on the reading and learned about how to navigate his rental options based on his felony. Mr. Rains gained insight from conversations about personal health and how an individual's attitude impacts their overall wellness. He noted that the more upset and negative a person is the worse their health may be. Mr. Rains' commitment to change includes improving his personal relationships, maintaining sobriety, and finding meaningful employment within the community.

(PSI, p.171.) Along with his excellent performance in the ART and pre-release programs, Mr. Rains received no formal disciplinary sanctions. (PSI, p.170.) He received just three written warnings for not being on his bed during count, signing up for rowing but not attending, and being on an unauthorized tier. (PSI, p.170.) In addition, Mr. Rains had a plan for success in the community. He had employment upon release with Idaho Heating. (PSI, p.172.) He also had mental health counseling and medical care available through the VA.³ (PSI, p.172.) Finally, Mr. Rains requested another opportunity on probation because he "realized how much of a privilege probation is instead of being incarcerated." (PSI, p.173.) He explained that the rider "has shown me how to redirect my negative behavior. Pre-release has taught me the tools to be productive and positive in society." (PSI, p.173.) In light of this information of Mr. Rains's progress on the rider and his tools to succeed in the community, the district court did not exercise reason and thus abused its discretion by relinquishing jurisdiction. Proper consideration of these facts establishes that Mr. Rains was an appropriate candidate for probation.

³ [REDACTED] Mr. Rains enlisted in the Army in 2007. (PSI, p.10.) He was trained as a diesel mechanic and served in Kuwait and Afghanistan. (PSI, p.10.) He was honorably discharged in 2016. (PSI, p.10.)

CONCLUSION

Mr. Rains respectfully requests that this Court reverse or vacate the district court's judgment and order relinquishing jurisdiction and remand this case for further proceedings,

DATED this 16th day of August, 2019.

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of August, 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
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/s/ Evan A. Smith
EVAN A. SMITH
Administrative Assistant

JCS/eas