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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NOS. 47739-2020 & 47740-2020
Plaintiff-Respondent,)	
)	Ada County Case Nos.
v.)	CR01-17-20859 & CR01-18-34762
)	
DWAYNE D. HANER,)	
)	RESPONDENT’S BRIEF
Defendant-Appellant.)	
_____)	

Has Haner failed to show that the district court abused its sentencing discretion when it relinquished jurisdiction after Haner’s two convictions for felony DUI?

ARGUMENT

Haner Has Failed To Show That The District Court Abused Its Sentencing Discretion

A. Introduction

Haner pled guilty to felony DUI and the district court imposed and suspended a sentence of ten years with two years determinate and placed Haner on probation. (47739 R., pp. 23-25, 27, 43-51.) Haner violated his probation by, and was convicted of, committing the new crimes of

felony DUI and malicious injury to property. (47739 R., pp. 64-76, 85; 47740 R., pp. 23-24, 42-43, 47-48, 71.) The district court imposed a sentence of ten years with three years determinate on the new felony DUI and retained jurisdiction in both cases. (47739 R., pp. 92-94; 47740 R., pp. 71-74.) The district court subsequently relinquished jurisdiction. (47739 R., pp. 99-100; 47740 R., pp. 79-80.) Haner timely appealed from the orders relinquishing jurisdiction. (47739 R., pp. 102-03; 47740 R., pp. 82-83.)

On appeal Haner contends the district court abused its discretion by relinquishing jurisdiction rather than granting him probation. (Appellant’s brief, pp. 4-5.) Review of the record and application of the relevant legal standards show no abuse of discretion.

B. Standard Of Review

“The decision to relinquish jurisdiction is committed to the district judge’s discretion.” State v. Haws, 167 Idaho 471, ___, 472 P.3d 576, 585 (2020) (quotation marks and ellipse omitted). In evaluating whether a lower court abused its discretion, the appellate court conducts a four-part inquiry, which asks “whether the trial court: (1) correctly perceived the issue as one of discretion; (2) acted within the outer boundaries of its discretion; (3) acted consistently with the legal standards applicable to the specific choices available to it; and (4) reached its decision by the exercise of reason.” State v. Herrera, 164 Idaho 261, 272, 429 P.3d 149, 160 (2018) (citing Lunneborg v. My Fun Life, 163 Idaho 856, 863, 421 P.3d 187, 194 (2018)).

C. Haner Has Shown No Abuse Of The District Court’s Discretion

“At the end of the period of retained jurisdiction, the court may suspend the sentence and place the defendant on probation, or may relinquish jurisdiction, allowing execution of the original sentence.” State v. Lutes, 141 Idaho 911, 915, 120 P.3d 299, 303 (Ct. App. 2005). Good

performance during the retained jurisdiction program “does not alone create an abuse of discretion in the district judge’s decision not to place the defendant on probation or reduce the sentence.” State v. Statton, 136 Idaho 135, 137, 30 P.3d 290, 292 (2001). “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, 303 P.3d 241, 248 (Ct. App. 2013).

The district court based its decision to relinquish jurisdiction rather than grant probation on Haner’s commission of two felony DUIs, his performance on his initial probation, the “committee’s recommendation,” Haner’s “performance on the retained jurisdiction,” and “the threat to the community” Haner represents. (12/31/19 Tr., p. 55, L. 5 – p. 56, L. 15.) The record supports this exercise of discretion.

Haner committed his first felony DUI on June 7, 2017. (PSI, p. 3.¹) He had an extensive record of mostly minor crimes at that time, including numerous probations and probation violations. (PSI, pp. 4-11.) Less than a year after being placed on probation Haner committed another felony DUI. (47739 R., p. 43-51 (probation ordered 9/29/17); 47740 R., p. 24 (new felony DUI committed 7/5/18).) When retaining jurisdiction “for evaluation purposes” the district court stated that Haner had “better do an excellent rider” without disciplinary reports if he hoped for probation. (2/1/19 Tr., p. 41, Ls. 5-24.)

Haner did not do an excellent rider. He received two disciplinary reports and numerous warnings. (PSI, p. 145.) Haner “failed to accept accountability for his actions or recognize his struggles with substance abuse.” (PSI, p. 148.) “He often blamed others for his actions and became argumentative upon redirection.” (Id.) His behavior indicated he did not desire to benefit

¹ Citations to the PSI are to “Con.Docs.-Haner-47740.doc.”

from programming. (Id.) His behavior was noncompliant, and when given behavioral contracts to address the problem “he often attempted to manipulate their completion.” (Id.) Because of these issues, IDOC recommended the district court relinquish jurisdiction. (Id.) Haner’s criminal conduct, his performance on his initial probation, and his failure to show amenability to supervision during the retained jurisdiction all support the district court’s exercise of discretion.

Haner contends there are mitigating factors in his case. (Appellant’s brief, pp. 4-5.) Although Haner’s mental conditions and alcohol and drug abuse certainly explain how he got to this point, they do not in any way undercut the district court’s conclusion that Haner is an unacceptable risk to the community. Simply stated, Haner’s mental conditions and substance abuse were not reasons to place him on probation. Haner has shown no abuse of discretion.

CONCLUSION

The state respectfully requests this Court to affirm the judgment of the district court.

DATED this 20th day of November, 2020.

/s/ Kenneth K. Jorgensen
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Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 20th day of November, 2020, served a true and correct copy of the foregoing RESPONDENT'S BRIEF to the attorney listed below by means of iCourt File and Serve:

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KKJ/dd