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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 48171-2020
Plaintiff-Respondent,)	
)	Minidoka County Case No.
v.)	CR-2013-3447
)	
WILLIAM EDWARD HARTMAN,)	
)	
Defendant-Appellant.)	<u>AMENDED</u> RESPONDENT’S BRIEF
_____)	

Has Hartman failed to show that the district court abused its sentencing discretion when it revoked probation and imposed sentences of seven years with ~~two~~ five years determinate for possession of a controlled substance?

ARGUMENT

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

A. Introduction

The district court first entered judgment in 2014 on Hartman’s plea of guilty to possession of a controlled substance, sentenced him to seven years with ~~two~~ five years determinate, and

retained jurisdiction. (R., vol. 1, pp. 153-55.) The district court later suspended the sentence and granted probation. (R., vol. 1, pp. 174-75.)

Hartman violated his probation. (R., vol. 1, pp. 185-200; vol. 2, pp. 212-13.) The district court revoked probation, executed the sentence, and retained jurisdiction. (R., vol. 2, pp. 214-16.) The district court later placed Hartman on probation. (R., vol. 2, pp. 222-23.)

Hartman again violated his probation. (R., vol. 2, pp. 229-51, 263-68, 271-72; Supp. Tr., p. 10, L. 11 – p. 16, L. 12.) The district court executed the judgment. (R., vol. 2, pp. 274-75; Tr., p. 11, L. 23 – p. 14, L. 19.) Hartman timely appealed. (R., vol. 2, pp. 281-82.)

On appeal Hartman argues the district court abused its discretion by not granting him another probation or retaining jurisdiction a third time. (Appellant’s brief, pp. 3-6.) Hartman has failed to show an abuse of discretion because the record supports the district court’s order revoking probation.

B. Standard Of Review

“Once a probation violation has been proven, the decision of whether to revoke probation is within the sound discretion of the court.” State v. Le Veque, 164 Idaho 110, 113, 426 P.3d 461, 464 (2018) (quotation marks omitted). When reviewing a claim of abuse of discretion, the four essential elements are “[w]hether 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.” Lunneborg v. My Fun Life, 163 Idaho 856, 863, 421 P.3d 187, 194 (2018).

C. Hartman Has Shown No Abuse Of The District Court's Discretion

First, the district court correctly perceived the issue of revocation of probation to be discretionary. In revoking, the district court stated it was doing so “in the exercise of discretion.” (Tr., p. 14, Ls. 4-5.) Hartman makes no argument that the first element of discretion is not met. (Appellant's brief, pp. 3-6.)

Second, the district court acted within the boundaries of its discretion. The district court was statutorily authorized to revoke probation upon a finding of a probation violation. I.C. § 19-2603. Here Hartman had violated his probation in multiple ways on two separate occasions. (R., vol. 1, pp. 185-200; vol. 2, pp. 212-13, 229-51, 263-68, 271-72; Supp. Tr., p. 10, L. 11 – p. 16, L. 12.) The district court acted within the boundaries of its discretion. Hartman, again, does not dispute this. (Appellant's brief, pp. 3-6.)

Third, the district court acted consistently with the applicable legal standards. “In deciding whether revocation of probation is the appropriate response to a violation, the court considers whether the probation is achieving the goal of rehabilitation and whether continued probation is consistent with the protection of society.” Knutsen v. State, 144 Idaho 433, 441-42, 163 P.3d 222, 230-31 (Ct. App. 2007). The district court specifically found that probation was accomplishing neither of these goals. (Tr., p. 13, L. 15 – p. 14, L. 3.) Again, Hartman does not contend the third factor of discretion is not met. (Appellant's brief, pp. 3-6.)

Finally, the district court reached its decision by the exercise of reason. The district court recognized that Hartman had substance abuse and mental health issues, but reasoned that without grounds to believe that rehabilitation or community protection could be achieved through probation “the other goals of sentencing ... predominate.” (Tr., p. 13, L. 19 – p. 14, L. 3.) Hartman contends this element was not met because he has substance abuse and mental health issues,

completed the rider program twice, and took other rehabilitative efforts such as mental health court. (Appellant's brief, pp. 3-6.) It was not unreasonable to conclude, as did the district court, that a third rider would not be more successful at protecting the community and rehabilitating Hartman than the first two had been. Hartman has not shown the district court failed to exercise reason, and has therefore failed to show any abuse of discretion.

CONCLUSION

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

DATED this 5th day of February, 2021.

/s/ Kenneth K. Jorgensen
KENNETH K. JORGENSEN
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 5th day of February, 2021, served a true and correct copy of the foregoing AMENDED RESPONDENT'S BRIEF to the attorney listed below by means of iCourt File and Serve:

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/s/ Kenneth K. Jorgensen
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KKJ/dd