

Uldaho Law

## Digital Commons @ Uldaho Law

---

Not Reported

Idaho Supreme Court Records & Briefs

---

2-9-2021

### State v. Taylor Appellant's Brief Dckt. 48217

Follow this and additional works at: [https://digitalcommons.law.uidaho.edu/not\\_reported](https://digitalcommons.law.uidaho.edu/not_reported)

---

#### Recommended Citation

"State v. Taylor Appellant's Brief Dckt. 48217" (2021). *Not Reported*. 7018.  
[https://digitalcommons.law.uidaho.edu/not\\_reported/7018](https://digitalcommons.law.uidaho.edu/not_reported/7018)

This Court Document is brought to you for free and open access by the Idaho Supreme Court Records & Briefs at Digital Commons @ Uldaho Law. It has been accepted for inclusion in Not Reported by an authorized administrator of Digital Commons @ Uldaho Law. For more information, please contact [annablaine@uidaho.edu](mailto:annablaine@uidaho.edu).

ERIC D. FREDERICKSEN  
State Appellate Public Defender  
I.S.B. #6555

SALLY J. COOLEY  
Deputy State Appellate Public Defender  
I.S.B. #7353  
322 E. Front Street, Suite 570  
Boise, Idaho 83702  
Phone: (208) 334-2712  
Fax: (208) 334-2985  
E-mail: documents@sapd.state.id.us

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	
	)	
Plaintiff-Respondent,	)	NO. 48217-2020
	)	
v.	)	ADA COUNTY NO. CR01-18-61164
	)	
DANIEL SCOTT TAYLOR,	)	APPELLANT'S BRIEF
	)	
Defendant-Appellant.	)	
_____	)	

STATEMENT OF THE CASE

Nature of the Case

Pursuant to a plea agreement, Daniel Scott Taylor pled guilty to possession of methamphetamine and misdemeanor DUI. He received a unified sentence of six years, with two years fixed, and the court retained jurisdiction, then placed him on probation for five years. After a probation violation, the district court revoked Mr. Taylor's probation. On appeal, Mr. Taylor contends that the district court abused its discretion in revoking his probation.

## Statement of the Facts & Course of Proceedings

In the evening on December 29, 2018, a reporting party notified law enforcement of a driver in a white Lincoln Town car who was swerving and had crossed into oncoming traffic. (Presentence Investigation Report (*hereinafter*, PSI),<sup>1</sup> pp.7, 119.) Officers were unable to make contact with the calling party; however, after an area search, Daniel Taylor was located sleeping in the front seat of his vehicle, which matched the description provided by the reporting party. (PSI, p.7.) Upon making contact with Mr. Taylor, the officer observed him hiding something between the seats which was believed to be a baggie containing suspected methamphetamine. (PSI, p.7.) Mr. Taylor was unsteady on his feet and field sobriety tests were conducted, which Mr. Taylor did not pass. (PSI, pp.7-8.) When a breathalyzer examination was administered, Mr. Taylor's results were 0.00. (PSI, p.8.) Mr. Taylor consented to a blood draw, and the results indicated that Mr. Taylor had methamphetamine, amphetamine, and Lorazepam in his blood. (PSI, pp.8, 104, 109; R., p.31.) Mr. Taylor admitted to using methamphetamine and Suboxone<sup>2</sup> earlier in the day. (PSI, p.8.)

Based on these facts, Mr. Taylor was charged with possession of methamphetamine and misdemeanor DUI. (R., pp.23-24.) Pursuant to a plea agreement, Mr. Taylor pled guilty as charged. (R., pp.35-47.) In exchange for the guilty plea, the State agreed to recommend a sentence of five years, with two years fixed, but that the district court suspend the sentence and place Mr. Taylor on probation. (R., pp.37, 43.) The district court sentenced Mr. Taylor to a unified sentence of six years, with two years fixed, for the drug charge, and 180 days, concurrent, for the misdemeanor DUI. (R., pp.70-74.) The court retained jurisdiction over

---

<sup>1</sup> Appellant's use of the designation "PSI" includes the packet of documents grouped with the electronic copy of the PSI, and the page numbers cited shall refer to the corresponding page of the electronic file.

<sup>2</sup> Suboxone was a medication prescribed to Mr. Taylor. (R., p.37; PSI, pp.135-36.)

Mr. Taylor. (R., p.71.) After a period of retained jurisdiction, the district court suspended the prison sentence and placed Mr. Taylor on probation for five years. (R., pp. 96-102.)

In 2020, the State filed a motion for probation violation. (R., pp.118-140.) Mr. Taylor was alleged to have violated his probation by failing to notify his supervising officer of multiple law enforcement contacts, failing to move into a sober living residence as instructed, failing to obtain permission from his supervising officer before leaving the district, consuming alcohol, using methamphetamine and marijuana, failing to successfully complete substance abuse treatment, operating a motor vehicle without a license, driving without an interlock device, failing to maintain full-time employment, failing to make himself available for supervision, and failing to pay fines, fees, and restitution. (R., pp.118-140.) Mr. Taylor was screened for admittance into Drug Court. (R., pp.141, 144-48.) Pursuant to a plea agreement, Mr. Taylor admitted to violating some of the terms and conditions of his probation. (6/19/20 Tr., p.7, L.17 - p.8, L.6; p.11, L.5 – p.13, L.25; R., pp.142-43.) At the disposition hearing, the district court revoked Mr. Taylor's probation and gave him credit for 372 days he had served.<sup>3</sup> (7/24/20 Tr., p.25, L.25 – p.13, L.3; R., pp.149-51.)

Mr. Taylor filed a Notice of Appeal timely from the Order Revoking Probation, Imposition of Sentence and Commitment. (R., pp.153-55.)

### ISSUE

Did the district court abuse its discretion by revoking Mr. Taylor's probation?

---

<sup>3</sup> Mr. Taylor was found not appropriate for admittance to Drug Court, according to the district court. (7/24/20 Tr., p.16, Ls.16-17.)

## ARGUMENT

### The District Court Abused Its Discretion When It Revoked Mr. Taylor's Probation

Mr. Taylor asserts that the district court abused its discretion when it revoked his probation and executed his original sentence of six years, with two years fixed. He asserts that his probation violations did not justify revoking probation, especially in light of the goals of rehabilitation and the fact that the protection of society could be best served by his continued supervision under the probation department.

There are generally two questions that must be determined by the district court in addressing allegations of probation violations: first, the court must determine whether the defendant actually violated the terms and conditions of his probation; and second, if a violation of probation has been found, the trial court must then decide the appropriate remedy for the violation. *State v. Sanchez*, 149 Idaho 102, 105 (2009). “The determination of whether a probation violation has been established is separate from the decision of what consequence, if any, to impose for the violation.” *Id.* (quoting *State v. Thompson*, 140 Idaho 796, 799 (2004)). Once a probation violation has been found, the district court must determine whether it is of such seriousness as to warrant revoking probation. *State v. Chavez*, 134 Idaho 308, 312 (Ct. App. 2000). However, probation may not be revoked arbitrarily. *State v. Adams*, 115 Idaho 1053, 1055 (Ct. App. 1989). The district court must decide whether probation is achieving the goal of rehabilitation and whether probation is consistent with the protection of society. *State v. Leach*, 135 Idaho 525, 529 (Ct. App. 2001). If a knowing and intentional probation violation has been proved, a district court's decision to revoke probation will be reviewed for an abuse of discretion. I.C. § 20-222; *Leach*, 135 Idaho at 529.

In reviewing a trial court's decision for an abuse of discretion, the relevant inquiry regards four factors:

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.

*Lunneborg v. My Fun Life*, 163 Idaho 856, 863 (2018).

Only if the trial court determines that alternatives to imprisonment are not adequate in a particular situation to meet the state's legitimate interest in punishment, deterrence, or the protection of society, may the court imprison a probationer who has made sufficient, genuine efforts to obey the terms of the probation order. *State v. Lafferty*, 125 Idaho 378, 382 (Ct. App. 1994). Mr. Taylor asserts that the district court abused its discretion by failing to reach its decision to revoke his probation by the exercise of reason.

Here, Mr. Taylor performed very well in custody, but when he was released from the rider programming, he did not have a 30-day supply of his mental health medication, Lithium.<sup>4</sup> (7/24/20 Tr., p.19, Ls.6-18; PSI, p.135.) His release coincided with the rise of Covid-19 in the community, which resulted in businesses being shut down, including the business that processes Medicaid. (7/24/20 Tr., p.19, L.16 – p.20, L.1.) This led to Mr. Taylor's inability to obtain his prescribed mental health medication, which, when combined with personal challenges such as marital difficulties, overwhelmed Mr. Taylor. (7/24/20 Tr., p.20, Ls.2-15.) Further, due to the Covid-19 pandemic, Mr. Taylor's support system, Narcotics Anonymous (NA), could not meet in person.<sup>5</sup> (7/24/20 Tr., p.22, Ls.17-21; PSI, pp.141-42.) As a result of his loss of this source of

---

<sup>4</sup> Mr. Taylor has been diagnosed with Bipolar Disorder. (PSI, pp.134, 136; R., p.37.)

<sup>5</sup> Mr. Taylor also has Chronic Obstructive Pulmonary Disease (COPD), thus he is at risk of serious complications should he contract Covid-19 while incarcerated. (7/24/20 Tr., p.23, Ls.6-9; PSI, pp.134, 136.)

support and his unmedicated condition, he became manic and self-medicated using illegal substances. (7/24/20 Tr., p.20, Ls.2-15.) However, Mr. Taylor can be rehabilitated and be a productive member of society. Mr. Taylor asserts that the district court abused its discretion in finding that his probation violations justified revocation in light of his past successes on probation and his rehabilitative potential. (7/24/20 Tr., p.22, Ls.12-16.)

One factor supporting Mr. Taylor's rehabilitative potential is the fact that he has strong support in the community. (7/24/20 Tr., p.21, Ls.2-12.) Ms. Kristen Johnson, who was present for Mr. Taylor's disposition hearing, wants to do whatever she can to help Mr. Taylor succeed. (7/24/20 Tr., p.21, Ls.2-7.) She sees Mr. Taylor's potential and has hope for his future. (7/24/20 Tr., p.21, Ls.7-12.) Further, Mr. Taylor now knows what it takes to succeed on probation. He has plans to reconnect with his treatment provider to continue his classes. (7/24/20 Tr., p.21, Ls.18-22.) While on probation, Mr. Taylor was participating in treatment classes over Zoom, but his telephone stopped working and he did not have any way to resume the classes. (7/24/20 Tr., p.20, Ls.3-9.) Mr. Taylor has Medicaid now, and so he can obtain the correct mental health medications upon his release. (7/24/20 Tr., p.21, Ls.22-25.)

In light of all of the mitigating evidence presented to the district court that demonstrates Mr. Taylor's significant rehabilitative potential, the district court abused its discretion when revoked Mr. Taylor's probation.

CONCLUSION

Mr. Taylor respectfully requests that this Court reduce his sentence as it deems appropriate. Alternatively, he requests that his case be remanded to the district court for a new disposition hearing.

DATED this 9<sup>th</sup> day of February, 2021.

/s/ Sally J. Cooley  
SALLY J. COOLEY  
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9<sup>th</sup> day of February, 2021, 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

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

SJC/eas