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### State v. Byron Respondent's Brief Dckt. 48253

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LAWRENCE G. WASDEN  
Attorney General  
State of Idaho

COLLEEN D. ZAHN  
Deputy Attorney General  
Chief, Criminal Law Division

JUSTIN R. PORTER  
Deputy Attorney General  
P.O. Box 83720  
Boise, Idaho 83720-0010  
(208) 334-4534  
E-mail: [ecf@ag.idaho.gov](mailto:ecf@ag.idaho.gov)

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	
	)	NO. 48253-2020
Plaintiff-Respondent,	)	
	)	Bonneville County Case No.
v.	)	CR10-19-8407
	)	
AUSTIN SAMUEL BYRON,	)	
	)	RESPONDENT’S BRIEF
Defendant-Appellant.	)	
_____	)	

Has Austin Samuel Byron failed to show that the district court abused its discretion when it revoked his probation?

ARGUMENT

Byron Has Failed To Show That The District Court Abused Its Discretion

A. Introduction

Byron punched his girlfriend, possibly dislocating her jaw, and strangled her until she blacked out. (PSI, p.3.) The state charged Byron with attempted strangulation and misdemeanor

domestic battery. (R., pp.52-53.) Pursuant to a plea agreement, Byron pled guilty to the amended charge of felony domestic battery. (R., pp.77-78, 81-84, 89-93.)

The court imposed a unified sentence of ten years, with two years determinate. (R., pp.110-15.) The court then suspended the underlying sentence and placed Amos on probation for a period of five years. (Id.) As a condition of his probation, Byron was required “to participate in and successfully complete the Domestic Violence Court.” (R., pp.111, 113.)

Less than three months after the district court placed Byron on probation, the domestic violence court suspended him from further participation in the domestic violence court program due to his failure to comply with its terms and conditions. (R., p.139.) Specifically, Byron was suspended for committing the new offense of violating a no contact order, committing the new offense of malicious injury to property, and possessing alcohol. (R., pp.139, 142.)

The state subsequently filed a motion for probation violation alleging that Byron violated the conditions of his probation by failing to participate in and successfully complete domestic violence court. (R., pp.140-42.<sup>1</sup>) Following an evidentiary hearing, the district court concluded that Byron violated his probation. (Tr., p.73, L.6 – p.75, L.13.) The court revoked Byron’s probation, imposed the underlying sentence, and retained jurisdiction. (R., pp.167-69; Tr., p.83, L.8 – p.84, L.14.) Byron timely appealed. (R., pp.167, 170.)

On appeal, Byron asserts “the district court did not exercise reason in determining that revocation was appropriate because probation was serving its rehabilitative objective.” (Appellant’s brief, p.5.) Byron’s argument lacks merit. The court properly revoked his probation.

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<sup>1</sup> The state notes that the commission of new crimes and possessing and/or consuming alcohol were themselves independent violations of the conditions of Byron’s probation. (See R., pp.111, 113, 117-19.) Nevertheless, the state below alleged only that Byron violated his probation by failing to participate in and complete domestic violence court. (R., pp.140-42.)

B. Standard Of Review

This Court “review[s] a district court’s decision to revoke probation under an abuse of discretion standard.” State v. Knutsen, 138 Idaho 918, 923, 71 P.3d 1065, 1070 (Ct. App. 2003); see also State v. Sanchez, 149 Idaho 102, 105, 233 P.3d 33, 36 (2009). When a trial court’s discretionary decision is reviewed on appeal, the appellate court conducts a multi-tiered inquiry to determine whether the lower court: (1) perceived the issue as one of discretion; (2) acted within the boundaries of such discretion; (3) acted consistently with any legal standards applicable to the specific choices before it; and (4) reached its decision by an exercise of reason. State v. Herrera, 164 Idaho 261, 270, 429 P.3d 149, 158 (2018).

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

The district court did not abuse its discretion when it revoked Byron’s probation. “The purpose of probation is to give the defendant an opportunity to be rehabilitated under proper control and supervision” while also providing adequate protection for society. State v. Mummert, 98 Idaho 452, 454, 566 P.2d 1110, 1112 (1977); see State v. Upton, 127 Idaho 274, 275, 899 P.2d 984, 985 (Ct. App. 1995); State v. Peterson, 123 Idaho 49, 50-51, 844 P.2d 31, 32-33 (Ct. App. 1992). “If the trial judge reasonably concludes from the defendant’s conduct that probation is not achieving its rehabilitative purpose, probation may be revoked.” Peterson, 123 Idaho at 50-51, 844 P.2d at 32-33 (citation omitted).

Probation is not meeting the objective of rehabilitation and is not providing adequate protection for society where the defendant repeatedly violates the conditions of probation and commits new crimes. See, e.g., Upton, 127 Idaho at 276-77, 899 P.2d at 986-87 (holding the district court properly revoked probation because “probation had not been successful in fostering rehabilitation” as shown by defendant’s “commission of a new theft”); State v. Beckett, 122 Idaho

324, 325, 834 P.2d 326, 327 (Ct. App. 1992) (holding the district court properly revoked probation because “probation . . . was not working” where the defendant violated conditions of probation and “committed the same type of offense” while on probation); State v. Haas, 114 Idaho 554, 558, 758 P.2d 713, 717 (Ct. App. 1988) (holding the district court properly revoked probation because “this was the third violation of probation” and the defendant “had continued to engage in counterproductive acts”). The “focus of the inquiry is the conduct underlying the trial court's decision to revoke probation.” State v. Morgan, 153 Idaho 618, 621, 288 P.3d 835, 838 (Ct. App. 2012).

Here, the district court properly revoked Byron’s probation because Byron was terminated from participating in the domestic violence court after he committed two new criminal offenses. Just three months into his five-year probation, Byron had already been removed from safe and sober housing, family housing, and City of Refuge twice. (R., p.128.) So, Byron rented a motel room. (Tr., p.9, Ls.3-7.) After spending just one night at the motel, his neighbor reported to the motel owner that some things were being broken in Byron’s room. (Tr., p.9, L.8 – p.10, L.7.) When the owner went to Byron’s room to follow up, Byron walked out with bloody knuckles and yelled and screamed at her before slamming the door in her face. (Tr., p.9, L.25 – p.10, L.14.) Police responded to the motel in order to trespass Byron from the property. (Tr., p.10, Ls.15-17; p.18, L.15 – p.19, L.12; p.20, Ls.4-15.) Byron had shattered the glass vanity mirror leaving broken pieces of glass throughout the bathroom and ripped the TV armoire doors off their hinges. (Tr., p.10, L.23 – p.11, L.11; p.20, L.16 – p.24, L.11; State’s Exs. 1-5.) Consequently, Byron was cited for vandalism. (Tr., p.25, Ls.3-6.)

Furthermore, Byron admitted to his probation officer that he violated the no contact order that prohibited him from having contact with his ex-girlfriend. (Tr., p.33, L.9 – p.34, L.25.) Byron

was charged with violating the no contact order. (See Tr., p.31, L.16 – p.34, L.25.) He only attended two of twelve domestic violence treatment classes after being admitted to the domestic violence court. (Tr., p.31, L.3 – p.32, L.14.) Byron’s failure to fully engage in treatment and accruing two new charges resulted in his suspension from domestic violence court. (Tr., p.27, L.22 – p.31, L.15; p.73, L.6 – p.75, L.13.<sup>2</sup>) Thus, Byron’s own conduct resulted in his termination from domestic violence court and demonstrated that his probation was not achieving the goal of rehabilitation or providing adequate protection for society. Accordingly, the district court did not abuse its discretion by revoking probation, imposing the original sentence, and retaining jurisdiction. Byron has failed to show otherwise.

Byron argues “the district court did not exercise reason, and therefore abused its discretion, by revoking his probation and imposing his sentence without retaining jurisdiction.” (Appellant’s brief, p.6.) According to Byron, his new medication, history of mental health issues, substance abuse issues, remorse and acceptance of responsibility, and employment show that he can succeed under community supervision. (Appellant’s brief, pp.5-6.) Byron’s argument is unavailing.

In determining whether to revoke Byron’s probation, the district court considered goals of sentencing; the parties’ arguments; Byron’s statements; the PSI, which recommended a period of retained jurisdiction; and the criteria set forth in Idaho Code § 19-2521. (Tr., p.82, L.1 – p.83, L.7.) The court acknowledged Byron’s attempt to adjust his medications, but noted that it had already shown leniency by initially placing him on probation so he could participate in specialty court. (Tr., p.82, Ls.9-12, 19-24.) Nonetheless, in light of the evidence presented the court determined that imposing the underlying sentence and retaining jurisdiction was necessary. (Tr.,

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<sup>2</sup> The district court found by a preponderance of the evidence that Byron committed the new offenses. (Tr., p.74, L19 – p.75, L.7.)

p.83, L.3 – p.84, L.14.) Thus, even considering mitigating circumstances, the district court did not abuse its discretion when it revoked Byron’s probation after he demonstrated by his conduct that he was unwilling and/or incapable of abiding by the conditions of probation and domestic violence court.

CONCLUSION

The state respectfully requests this Court to affirm the district court’s order revoking probation and the judgment of conviction of the district court.

DATED this 11th day of March, 2021.

/s/ Justin R. Porter  
JUSTIN R. PORTER  
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 11th day of March, 2021, served a true and correct copy of the foregoing RESPONDENT’S BRIEF to the attorney listed below by means of iCourt File and Serve:

EMILY M. JOYCE  
DEPUTY STATE APPELLATE PUBLIC DEFENDER  
[documents@sapd.state.id.us](mailto:documents@sapd.state.id.us)

/s/ Justin R. Porter  
JUSTIN R. PORTER  
Deputy Attorney General

JRP/dd