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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,)	NOS. 48416-2020 & 48417-2020
)	
v.)	SHOSHONE COUNTY NOS.
)	CR-2017-812 & CR-2017-1016
UMBERTO MAINES CARON,)	
)	APPELLANT'S BRIEF
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Umberto Caron appeals from the district court's order revoking his probation and executing his underlying sentences in two cases. He argues the district court abused its discretion when it revoked his probation. He asserts that the district court should have continued or reinstated his probation.

Statement of the Facts & Course of Proceedings

In June 2017, the State filed a complaint against Mr. Caron for aggravated assault and felony possession of a controlled substance for firing three gunshots at another vehicle. (No. 48416 R., pp.18-20.) Two months later, Mr. Caron waived his preliminary hearing, and was

bound over to district court on those offenses. (No. 48416 R., pp.47-51, 55-56.) He was subsequently released on bond. (R., p.34.)

That same month, the State filed a complaint alleging Mr. Caron committed three offenses in a new case. (No. 48417 pp.18-25.) The new charges arose from an incident in which police officers discovered marijuana plants and drug paraphernalia in Mr. Caron's basement. (No. 48417 R., pp.22-25.) After he waived his preliminary hearing in that case, Mr. Caron was bound over to district court and charged by information with manufacturing a controlled substance, trafficking marijuana, and possession of drug paraphernalia. (No. 48417 R., pp.48-50.) Pursuant to a plea agreement, Mr. Caron pled guilty to aggravated assault and manufacturing marijuana, and the State dismissed the remaining charges. (No. 48416 R., p.81; No. 48417 R., pp.52, 72.)

Prior to sentencing, the district court ordered an evaluation to determine Mr. Caron's fitness to proceed. (No. 48416 R., pp.63-67; No. 48417 R., pp.33-38.) The district court determined that he lacked the capacity to make informed decisions about treatment, and suspended all case proceedings in September 2017. (No. 48416 R., pp.68-73; No. 48417 R., pp.43-44.)

After Mr. Caron's competency was restored, a joint sentencing hearing was held in May 2018. (No. 48416 R., pp.100-108; No. 48417 R., pp.73-81, 84.) In both cases, the district court imposed a concurrent sentence of four years, with one year fixed, suspended the sentence, and placed Mr. Caron on probation for two years. (No. 48416 R., pp.100-108; No. 48417 R., pp.73-81, 84.)

Mr. Caron admitted to violating his probation in October 2018, and the district court executed his underlying four-year sentences, and retained jurisdiction (a "rider"). (No. 48416

R., pp.138-43; No. 48417 R., pp.111-14.) At the rider review hearing in May 2019, the district court suspended Mr. Caron's underlying sentences, and returned him to probation for two years. (No. 48416 R., pp.149-56; No. 48417 R., pp.137-44.)

In November 2019, Mr. Caron admitted to violating his probation, and the district court reinstated his probation.¹ (No. 48416 R., pp.196-202; No. 48417 R., pp.213-15.)

Mr. Caron admitted to violating his probation again in April 2020, and the district court once again reinstated his probation. (No. 48416 R., pp.226-232; No. 48417 R., pp.262-68.)

The State filed a motion for probation violation in July 2020, alleging Mr. Caron committed two probation violations. (No. 48416 R., pp.233-38, 241-46; No. 48417 R., pp.269-73.) At the joint admit/deny and sentencing hearing in September 2020, Mr. Caron admitted to violating his probation by providing positive urine samples. (Tr., p.6, Ls.10 - p.7, L.17; No. 48417 R., p.281; No. 48416 R., p.255.) The State recommended that the district court execute his underlying sentences in both cases. (Tr., p.8, Ls.11-13.) Defense counsel recommended that the district court reinstate Mr. Caron's probation. (Tr., p.10, Ls.19-22.) The district court revoked probation in both cases, and executed his underlying concurrent sentence of four years, with one year fixed. (Tr., p.15, Ls.6-11; No.48416 R., pp.257-59; No.48417 R., pp.284-86.) Mr. Caron timely appealed from the district court's order revoking probation. (No. 48416 R., pp.260-61; No. 48417 R., pp.287-89.)

¹ After Mr. Caron's probation violation in October 2019, his probation officer recommended him for Mental Health Court. (No. 48417 R., pp.194-95.) However, the Mental Health Court program is located in Kootenai County, and Mr. Caron must live in that county in order to participate. (See Tr., p.13, Ls.3-12.)

ISSUE

Did the district court abuse its discretion when it revoked Mr. Caron's probation and executed his underlying sentences?

ARGUMENT

The District Court Abused Its Discretion When It Revoked Mr. Caron's Probation And Executed His Underlying Sentences

Idaho's appellate courts use a two-step analysis to review a district court's decision to revoke probation. *State v. Sanchez*, 149 Idaho 102, 105 (2009). First, this Court must determine "whether the defendant violated the terms of his probation." *Id.* Second, "[i]f it is determined that the defendant has in fact violated the terms of his probation," the Court examines "what should be the consequences of that violation." *Id.* The determination of a probation violation and the determination of the consequences, if any, are separate analyses. *Id.*

Here, Mr. Caron does not challenge his admissions to violating his probation. (Tr., p.6, Ls.10-15.) Rather, he argues that the district court abused its discretion by revoking his probation.

After a probation violation has been proven, "[a] district court's decision to revoke probation will not be overturned on appeal absent a showing that the court abused its discretion." *State v. Sanchez*, 149 Idaho 102, 105 (2009). "When reviewing a lower court's decision for an abuse of discretion, this Court must analyze '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. Bodenbach*, 165 Idaho 577, 591 (2019) (quoting *Lunneborg v. My Fun Life*, 163 Idaho 856, 863 (2018)).

██████████ Mr. Caron was diagnosed with schizophrenia around age ██████████ and has engaged in treatment ever since. (No. 48417 PSI, pp.13, 37.) He reported that he has taken medications most of his adult life to help with his mental health issues. (No. 48417 PSI, pp.10-11, 14, 37, 44.) During his mental health evaluation, Mr. Caron reported that he had pains in his body, and he felt that it might be someone else in his body. (No. 48417 PSI, p.11.) He stated that he hears voices and has bad panic attacks, but when he takes Buspar, it helps alleviate those symptoms. (No. 48417 PSI, p.11.) Mr. Caron reported that he has nightmares and stated, “Things are different when I lie down. I have thoughts of weird things. Like inmates and voices and maybe really bad panic attacks. . . .” (No. 48417 PSI, p.11.) He reported feeling sad, and stated he has thoughts of hurting himself. (No. 48417 PSI, p.15.) The mental health evaluator noted that Mr. Caron appears sad and depressed, and he tears up easily. (No. 48417 PSI, p.15.) The evaluator confirmed his schizophrenia diagnosis, noting that Mr. Caron suffers from “a severe and reliably diagnosable mental illness.” (No. 48417 PSI, p.16.)

When he was about ██████████ or ██████████ years-old, Mr. Caron suffered a head injury in a car accident, and has a titanium plate in his forehead as a result. (No. 48417 PSI pp.11, 34.) He explained that his schizophrenia got worse after the accident, and his behaviors changed. (No. 48417 PSI, p.11.) He stated that he is more impulsive, experiences lower motivation, and struggles more with decision-making. (No. 48417 p.11.) Mr. Caron was working in mining for about eight years, but he quit after the accident because the work became too difficult. (No. 48417 PSI, p.11.) As a result, he is currently unemployed and has been receiving Social Security Disability Insurance (“SSDI”) benefits for roughly twelve years. (No. 48417 PSI, p.29.) The mental health evaluator noted that “[Mr. Caron] experienced head trauma and may experience some cognitive limitations and impulse control problems as a result.” (No. 48417

PSI, p.13.) Mr. Caron stated he is willing to meet with a prescriber familiar with psychiatric medications and follow treatment recommendations. (No. 48417 PSI, p.16.)

According to the Global Appraisal of Individual Needs (“GAIN”) evaluation, Mr. Caron meets the lifetime criteria for moderate substance use disorder. (No. 48417 PSI, p.38.) He reported that he first used drugs and alcohol at age [REDACTED] (No. 48417 PSI, p.38.) Mr. Caron stated that he has tried methamphetamine several times, but only when his friends gave it to him, and said he has never purchased it. (No. 48417 PSI, p.14.) He also reported that he has used marijuana regularly to help with his anxiety. (No. 48417 PSI, p.14.) Mr. Caron admitted that his substance use has contributed to problems with the law and his family, and he feels substance abuse treatment may be helpful. (No. 48417 PSI, pp.21, 31.)

Mr. Caron’s commitment to treatment is evidenced by his positive performance in the retained jurisdiction program. His case manager reported that he did very well in groups, and was consistently very respectful with both his case manager and all three of his facilitators. (No. 48417 PSI, pp.3, 6.) Mr. Caron was attentive and answered appropriately when addressed. (No.48417 PSI, p.3.) His case manager noted that he was always willing to participate, and had “an attitude of learning and growing in class.” (No. 48417 PSI, p.3.) While he did struggle at times to understand some concepts due to his cognitive limitations, he was not afraid to ask for help or tell the facilitator that he was struggling with class material. (No. 48417 PSI, p.6.) Mr. Caron’s case manager noted that he can identify that he struggles with his anger, and that it is very risky for him to get upset. (No. 48417 PSI, p.6.) The retained jurisdiction program assessment noted that he demonstrated the ability to complete the required programming material

² There is conflicting information in the record regarding the age that Mr. Caron first used drugs or alcohol. Page thirty-eight of No. 48417 PSI states that he was [REDACTED] years-old, while page twenty-one states that he first drank alcohol at age [REDACTED].

and exhibited zero resistance to the program curriculum. (No. 48417 PSI, p.6.) Further, Mr. Caron did not receive any infractions or disciplinary write-ups during the retained jurisdiction program, and he was never a behavioral management issue for staff. (No. 48417 PSI, p.6.)

Additionally, Mr. Caron has support from his family, and has a place to live near them once he is released. (*See* Tr., p.10, Ls.7-9.) He reported that he has a good relationship with his parents, and stated that they are supportive of him. (No. 48417 PSI, p.28.) The pre-sentence investigator noted that Mr. Caron's parents and brother seem to help him when needed, and are available if he needs someone to talk to. (No. 48417 PSI, p.34.)

In this case, Mr. Caron's probation violations do not evidence any threat to the community. His probation violations are not a result of him harming another person or committing another assault – they stem from his substance abuse issues. Despite his serious substance abuse and mental health issues, Mr. Caron has tried to turn his life around. His excellent behavior during his rider program demonstrated that he has the tools to succeed in the community under proper control and supervision. Additionally, Mr. Caron has support from his family, and has a place to live near them upon his release.

In light of these facts, Mr. Caron submits that the district court did not exercise reason, and therefore abused its discretion, when by revoking his probation and executed his underlying sentences. He asserts that the district court should have continued or reinstated his probation.

CONCLUSION

Mr. Caron respectfully requests that this Court vacate the district court's order revoking his probation and remand his case to the district court for an order reinstating his probation.

DATED this 28th day of May, 2021.

/s/ Kiley A. Heffner
KILEY A. HEFFNER
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of May, 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

KAH/eas