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AT \_\_\_\_\_ O'clock \_\_\_\_ M  
CLERK, DISTRICT COURT

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Deputy

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE  
STATE OF IDAHO IN AND FOR THE COUNTY OF KOOTENAI**

**STATE OF IDAHO,** )  
 )  
 *Respondent/Plaintiff,* )  
 )  
 vs. )  
 )  
 **KYLE TYLER MAITLAND,** )  
 )  
 *Appellant/Defendant.* )

Case No. **JV 2015 388**  
  
**MEMORANDUM DECISION AND  
ORDER ON APPEAL**

**I. PROCEDURAL HISTORY AND FACTUAL BACKGROUND.**

This matter is before the Court on the appeal by appellant/defendant Kyle Tyler Maitland (Maitland) of Magistrate Judge Clark A. Peterson entered on October 8, 2015. Notice of Appeal, p. 1, ¶ 1. As will be discussed, there was no order entered by any judge on October 8, 2015. For a variety of reasons, the decisions of Judge Peterson in this case are affirmed.

On August 25, 2015, Maitland, a juvenile, was charged in this case (JV 2015 388) with battery against Shawn Haukaas, his foster brother. Petition, p. 2. On September 24, 2015, Maitland admitted committing the battery in this case. He also admitted the runaway charge in JV 2015 389 and the trespassing charge in JV 2015 400. Three other charges in three other cases were dismissed by the respondent/plaintiff State of Idaho (State) in exchange for those various admissions. Maitland stipulated to a Rule 19 Screening Team as a result of his admissions. A Conditional Release was entered on that date, releasing

Maitland from the District 1 Juvenile Detention Center, upon conditions. One of the conditions was that he have no contact with Anastasia Paulk. Conditional Release Order, p. 1. Four days later, on September 28, 2015, Juvenile Probation Officer Amy Fields filed an Affidavit of Violation of a Conditional Release Order, alleging Maitland had violated the “no contact order.” That same day, the State filed a Motion to Revoke Conditional Release, and an Order to Revoke Conditional Release was signed and a Warrant of Apprehension and Detention was entered. The warrant was served later that same day. An Order to Detain was entered on September 29, 2015.

On October 28, 2015, Magistrate Judge Clark Peterson presided over Maitland’s sentencing hearing. Judge Peterson continued sentencing to December 16, 2015, based on Maitland’s desire to explore a treatment program at the “Third Way Center” in Colorado. On November 13, 2015, Judge Peterson, upon learning Maitland had been accepted, held a hearing and placed Maitland on a Conditional Release, ordering Maitland be released on November 16, 2015, to attend that program and to fly down to that program with a case worker. Two weeks later, on November 30, 2015, an Affidavit was filed alleging Maitland had left the Third Way Center to smoke a cigarette, had tested positive for marijuana and was throwing chairs in the facility. A Motion to Revoke Conditional Release was filed December 1, 2015, and that same day a Warrant of Apprehension and Detention was filed. Two days later that warrant was quashed. On December 16, 2015, a sentencing hearing was held with Maitland participating telephonically from the Third Way Center. At the conclusion of that hearing, Judge Peterson found the Rule 19 elements for commitment to the Department of Juvenile Corrections were met and he found that the court could commit Maitland, but instead ordered a suspended commitment for two years, placed Maitland on formal probation for two years, ordered Maitland to complete the Third Way Center

program, and gave him credit for 80 days served in custody. On December 16, 2015, Findings of Fact, Conclusions of Law, and Order for Suspended Commitment to the Department of Juvenile Corrections were entered by Judge Peterson, consistent with what he stated on the record, as reflected in the court minutes. The court minutes do not reflect the imposition of any time in custody as a result of the battery, nor do the Findings of Fact, Conclusions of Law, and Order for Suspended Commitment to the Department of Juvenile Corrections.

On January 25, 2016, an Affidavit in Support of Probation Revocation/Warrant of Apprehension Request was filed, alleging that Maitland was consistently and repeatedly running away from the Third Way Center, and recommending placement in a secure facility. The next day the State filed a Motion for Probation Revocation, and a Warrant of Apprehension and Detention was signed. That warrant was served on February 4, 2016. A hearing was held on February 5, 2016, and at that time there were no placement options available for Maitland in a secure facility. An evidentiary hearing on Maitland's probation violation was scheduled for February 29, 2016. Maitland remained detained. On February 29, 2016, Maitland admitted the alleged probation violations and disposition was scheduled for March 23, 2016, before Judge Peterson. Maitland remained detained.

On March 23, 2016, Judge Peterson, in all three cases (this case which is the subject of the appeal, JV 2015 388, as well as the runaway charge in JV 2015 389 and the trespassing charge in JV 2015 400), and ordered Maitland committed to the Idaho State Department of Juvenile Corrections for a period not to exceed Maitland's 19<sup>th</sup> birthday. Findings of Fact, Conclusions of Law, and Order for Commitment to Department of Juvenile Corrections, p. 4.

On April 11, 2016, counsel for Maitland filed a Rule 35 Motion for Illegal Sentence,

and scheduled a hearing on that motion for May 11, 2016, which was later moved to May 13, 2016. No basis was given in that motion as to why counsel for Maitland felt the sentence was illegal, nor was any briefing submitted by counsel for Maitland prior to the hearing.

At the May 13, 2016, hearing, counsel for Maitland argued that since Judge Peterson did not state at the December 16, 2015, hearing, that the three cases were sentenced consecutively, then the sentences in the three cases must run concurrent, and that the battery in JV 2015 388 was the only case significant enough where commitment to the Department of Juvenile Corrections could be imposed. Appeal Transcript, Rule 35 Hearing, May 13, 2016, p. 3, L. 20 – p. 5, L. 4. Counsel for Maitland reiterated that request in closing. *Id.*, p. 11, Ll. 5-16. Judge Peterson found he could not now order the sentences be served consecutive, and that the battery charge was the only charge that could justify commitment. *Id.*, p. 12, L. 9 – p. 13, L. 9. After the Court made that ruling, counsel for Maitland informed the Court that its ruling created an “additional issue.” *Id.*, p. 13, Ll. 10-11. Essentially, counsel for Maitland then argued that because Maitland had served 80 days as of December 15, 2015, “that only left ten days left to serve,” (*Id.*, p. 13, L. 22) and that once those ten days were served, while waiting for his probation violation hearing in February, “that case would have ended, the Court would’ve lost jurisdiction, and he wouldn’t have been able to be committed on the battery case.” *Id.*, p. 14, L. 4-6. Judge Peterson held:

That doesn’t make any sense, Ms. Pearson, but maybe I’m just not understanding it. It doesn’t make sense to me I guess, but I think it’s really much simpler than you’re making it. There’s a probationary period. If during that period they do something that qualifies for commitment, they get committed. If after that commitment there’s an extended period of probation, they know when the end point is. It’s the end of probation. If during that continued period of time something else arises that leads to their commitment, they may be committed again to may – is my

understanding, and I just think it's – it's not overly complicated, and that is true even in the somewhat unfortunate situation where a person may have served their detention time. That just means that the probation officer and the Court have fewer options at their disposal for intermediate sanctions of violations of probation. There couldn't be any discretionary time of course. There couldn't be any local [Juvenile Detention Center] incarceration. It would just have to be a motion to commit him which may make probation unwieldy or may be a bad idea, but I don't think the Court is without the jurisdiction to do that. I think it's discretionary.

*Id.*, p. 24, L. 22 – p. 25, L. 19. That same day, May 13, 2016, Judge Peterson entered an order imposing 90 days in detention, giving credit for 90 days, and “the previously suspended commitment to the Department of Juvenile Corrections is imposed.” Probation Revocation, Findings of Fact, Conclusions of Law, and Order, p. 3.

On June 24, 2016, counsel for Maitland filed a Notice of Appeal in this case, appealing “from the judgment entered in the above entitled matter on October 8, 2015, in the Magistrate Court, the Honorable Clark Peterson presiding.” Notice of Appeal, p. 1. There was no hearing in this case on October 8, 2015. The only order in this case entered in October 2015, was Judge Peterson's October 28, 2015, order continuing sentencing to December 16, 2015, based on Maitland's desire to explore a treatment program at the Third Way Center in Colorado.

On August 15, 2016, the Clerk of the Court filed its Notice of Settling Transcript on Appeal and Briefing Schedule, scheduling oral argument on appeal for December 6, 2016. On September 9, 2016, Maitland timely filed Appellant's Brief in Support of Appeal. On December 1, 2016, the State untimely filed its Respondent's Brief. The State's brief was due on October 11, 2016, thus, the State was about seven weeks late. Also, on December 1, 2016, counsel for both Maitland and the State filed a Stipulated Motion for Extension of Time for Filing Briefs. In that stipulation, the parties jointly moved for an extension of time within which the State could file its Respondent's Brief, and notified the Court that there

would be no reply brief filed by the Appellant. This put the Court at a distinct disadvantage in that Respondent's Brief was filed only two business days before oral argument. This is a risky practice by counsel for the State. Due to the lack of time to prepare in advance, the Court took the matter under advisement after oral argument. This case is now at issue.

Maitland makes two arguments. First, he argues that the Magistrate Court lacked jurisdiction to commit him to the Department of Juvenile Corrections when he had served the maximum allowed time under the battery statute. Appellant's Brief in Support of Appeal, p. 3. Maitland concedes that Idaho Juvenile Rule 18(c)(2) may be read to "allow the court to commit a juvenile on a probation violation, despite exhaustion of all available time under the sentence imposed." *Id.* However, he argues that Idaho Code §§ 19-2601, 19-2603, and 20-520 are inconsistent with that Rule—that each code section limits the Magistrate Court's sentencing options and that "[u]nder these statutes a court loses [sic] jurisdiction over the juvenile/defendant when the maximum time ordered is served." *Id.*, p. 4–5.

Second, if this Court finds that the Magistrate Court had jurisdiction to commit Maitland, then Maitland argues that Idaho Code §§ 19-2601, 19-2603, and 20-520 are unconstitutionally vague as applied to Maitland, violating his due process rights. *Id.*, p. 6. Maitland states that he believed that once he served the maximum time allowed for a battery, the Magistrate Court could not commit him. *Id.*, p. 8. That belief was based on the sanctions available to the Magistrate Court under §§ 19-2601, 19-2603, and 20-520. *Id.* Maitland argues that because each statute does not expressly authorize the Magistrate Court to impose commitment once Maitland has served the maximum sentence, "Idaho Code §§ 20-520, 19-2601, and 19-2603 are ambiguous as the sanctions," and thus, the statutes should be construed in Maitland's favor by relinquishing jurisdiction. *Id.*

In response to Maitland's first argument, the State argues that the Magistrate Court did not lose jurisdiction over the Maitland and, as a result, imposed a legal sanction. Respondent's Brief, p. 5. The State argues that once acquired, the Magistrate Court retains jurisdiction over Maitland under the Juvenile Corrections Act until his twenty-first birthday, unless terminated earlier. *Id.*, p. 6. It argues that the Legislature's intent and the goal of the Juvenile Corrections Act is to rehabilitate juvenile offenders and the Juvenile Corrections Act includes multiple options for the Magistrate Court to consider when sentencing a juvenile in order to achieve that goal. *Id.*, pp. 6–7. The State cites I.C. § 20-520(r) as the Magistrate Court's authority to impose a commitment. *Id.*

Responding to Maitland's as applied vagueness claim, the State argues I.C. § 20-520 is unambiguous, that commitment is a possible sanction for a probation violation, and that "[t]here is nothing in the statutes to suggest that commitment is only an option before [the Appellant] uses all of his available detention time." *Id.*, pp. 9–10. The State also asserts Maitland received "fair and accurate notice that commitment was a possibility when [he] was placed on a suspended commitment on December 16, 2015." *Id.*, p. 10.

## **II. STANDARD OF REVIEW.**

An order issued by a court "in matters affecting a juvenile offender within the purview of [the Juvenile Corrections Act] may be appealed by the juvenile offender or the state." I.C. § 20-528. The appeal is heard by the district court in an appellate capacity, operating under the appellate rules of the Idaho Supreme Court. *Id.*

Jurisdiction is a question of law freely reviewed by the court on appeal. *State v. Kavajecz*, 139 Idaho 482, 483, 80 P.3d 1083, 1084 (2003).

"The requirements of the Idaho and U.S. Constitutions are questions of law, over which [the] [c]ourt has free review." *State v. Draper*, 151 Idaho 576, 598, 261 P.3d 853,

875 (2011). “The party challenging a statute on constitutional grounds bears the burden of establishing that the statute is unconstitutional and ‘must overcome a strong presumption of validity.’” *Doe I v. Doe*, 138 Idaho 893, 903, 71 P.3d 1040, 1050 (2003) (quoting *Olsen v. J.A. Freeman Co.*, 117 Idaho 706, 709, 791 P.2d 1285, 1288 (1990)). “An appellate court is obligated to seek an interpretation of a statute that will uphold its constitutionality.” *Id.* “In addition, ‘a statute should not be held void for uncertainty if any practical interpretation can be given it.’” *Id.* (quoting *State v. Cobb*, 132 Idaho 195, 197, 969 P.2d 244, 246 (1998)).

### **III. ANALYSIS.**

#### **A. Maitland’s appeal from an October 2015 Order is untimely; Additionally, no October 8, 2015, Order exists.**

Maitland appeals from an Order of Judge Peterson entered on October 8, 2015. Notice of Appeal, p. 1, ¶ 1. No such order exists. Even if Maitland were appealing from an October 8, 2015, Order, his appeal is untimely. Idaho Juvenile Rule 21 sets forth the Idaho Criminal Rules that apply to actions filed under the Juvenile Corrections Act. In the list of Idaho Criminal Rules that apply, Idaho Criminal Rules 54.1-54.9 apply. Idaho Criminal Rule 54.3 provides appeals from magistrates must be filed within forty-two (42) days from the date evidenced by the filing stamp of the clerk of the court on the judgment, order or decree appealed.

No amended notice of appeal has ever been filed and neither party has addressed this jurisdictional defect.

Maitland’s Notice of Appeal in this case was filed June 24, 2016. This Court finds as a matter of law that any appeal from any decision prior to May 12, 2016, is untimely.

#### **B. Idaho Criminal Rule 35 is not available in Juvenile Cases.**

Maitland’s Notice of Appeal only requests a transcript of “[t]he Rule 35 hearing on



May 13, 2016.” Notice of Appeal, p. 2. Maitland’s Rule 35 Motion for Illegal Sentence, filed April 11, 2016, is the only motion that precipitated the May 16, 2016, Amended Probation Revocation, Findings of Fact, Conclusions of Law, and Order. If this is what Maitland intended to appeal, then his Notice of Appeal filed June 24, 2016, is timely as to the May 16, 2016, Amended Probation Revocation, Findings of Fact, Conclusions of Law, and Order. However, if that is what is being appealed from, this Court finds Maitland is appealing from an un-appealable order.

Idaho Juvenile Rule 21 sets forth the Idaho Criminal Rules that apply to actions filed under the Juvenile Corrections Act. In the list of Idaho Criminal Rules that apply, I.C.R. 35 does not apply. Thus, Maitland appeals from a motion that had no legal basis and an order that could not have been granted. Maitland’s only remedy would have been to appeal Judge Peterson’s March 24, 2016, Findings of Fact, Conclusions of Law, and Order for Commitment to the Department of Juvenile Corrections. The time for filing a Notice of Appeal from that order would have been approximately May 7, 2016, thus, Maitland’s Notice of Appeal filed June 24, 2016, is untimely, vis-à-vis the last appealable order of Judge Peterson.

**C. As of December 16, 2015, Judge Peterson had never imposed 90 days of detention. Thus, from a factual standpoint, Maitland’s loss of jurisdiction argument fails.**

It is not clear from Maitland’s brief what hearing date Maitland is claiming the 90 days imposed by Judge Peterson had already been served. It is unclear whether Maitland is arguing that the 90 days had expired as of the December 16, 2015, hearing, the March 24, 2016, hearing, or the May 13, 2016, hearing. All three are mentioned. Appellant’s Brief in Support of Appeal, pp. 1-2. There is indication that Maitland is arguing the 90 days had expired at the time of the December 16, 2015, hearing. *Id.*, p. 2.

What is clear is that on December 16, 2015, Judge Peterson had not yet imposed 90 days detention. On December 16, 2015, a sentencing hearing was held with Maitland participating telephonically from the Third Way Center. At the conclusion of that hearing, Judge Peterson found the Rule 19 elements for commitment to the Department of Juvenile Corrections were met and he found that the court could commit Maitland, but instead ordered a suspended commitment for two years, placed Maitland on formal probation for two years, ordered Maitland to complete the Third Way Center program, and gave him credit for 80 days served in custody. However, this was 80 days credit given at a time when, in fact, 90 days had not yet been imposed. Thus, Maitland's argument that the 90 days had already expired when Judge Peterson entered his December 16, 2015, order has no factual basis. Even if Maitland's argument is that the 90 days had already expired when Judge Peterson entered his March 24, 2016, order committing Maitland, that argument has no factual basis. This is so because even as of March 24, 2016, Judge Peterson had yet to impose 90 days detention in this case. As mentioned above, it was not until May 13, 2016, that Judge Peterson entered an order imposing 90 days in detention, giving credit for 90 days, and "[t]he previously suspended commitment to the Department of Juvenile Corrections is imposed." Probation Revocation, Findings of Fact, Conclusions of Law, and Order, p. 3. Maitland's arguments based on the 90 days having been served fail from a factual standpoint.

As the next section discusses, Maitland's argument that service of 90 days in the Juvenile Detention Center precludes a commitment with the Department of Juvenile Corrections, fails from a legal standpoint.

#### **D. The Magistrate Judge had jurisdiction under I.C. § 20-520.**

Idaho Code § 20-520 answers this question on appeal adverse to Maitland's

position. Judge Peterson had jurisdiction to commit Maitland on March 23, 2016, having already suspended commitment on December 16, 2015.

Idaho Code § 20-520 mandates (“the court shall”) that a sentencing hearing be held, and “[u]pon presentation and consideration of the report by the court, the court may proceed to sentence the juvenile offender as follows. What follows next in that statute are 19 options a magistrate judge may use. I.C. § 20-520 (a)-(s). Under the plain language of that statute, the magistrate judge is in no way limited to any one option.

The only exception is that once the magistrate court formally sentences a juvenile to two years’ probation under paragraph (1)(a), it has no authority to convert the judgment into an informal adjustment under I.C. § 20-511, and I.J.R. 11. *State v. Doe*, 153 Idaho 588, 591, 288 P.3d 805, 808 (2012). That concept is not at issue in this case.

What is at issue is: 1) formal probation (allowed under I.C. § 20-520(1)(a)); 2) commitment for a period of detention of 90 days for the battery in this case (allowed under I.C. § 20-520(1)(c), since battery is a misdemeanor if Maitland were an adult), and 3) commitment to the custody of the department of juvenile corrections (allowed under I.C. § 20-520(1)(r)). That subsection reads:

(r) Commit the juvenile offender to the legal custody of the department of juvenile corrections for an indeterminate period of time not to exceed the juvenile offender's nineteenth birthday, unless the custody review board determines that extended time in custody is necessary to address competency development, accountability, and community protection; provided however, that no juvenile offender shall remain in the custody of the department beyond the juvenile offender's twenty-first birthday. The department shall adopt rules implementing the custody review board and operations and procedures of such board. Juvenile offenders convicted as adults and placed in the dual custody of the department of juvenile corrections and the state board of correction under section 19-2601A, Idaho Code, are under the retained jurisdiction of the court and are not within the purview of the custody review board;

There is nothing in I.C. § 20-520 that prohibits Judge Peterson from using all three of those

responses to Maitland's battery. The first two options, formal probation and detention, are enumerated in I.C. § 20-501, which sets forth the legislative intent for the juvenile corrections system. The preface of that statute reads, in part: "In enacting this legislation, the legislature finds that the juvenile corrections system should encompass the following aspects: day treatment, community programs, observation and assessment programs, probation services, secure facilities, after-care and assistance to counties *for juvenile offenders not committed to the custody of the department of juvenile corrections.*" (italics added). The first two options provided by I.C. § 20-501 and used by Judge Peterson are thus described in the statute as "probation services" and "secure facilities" (detention). The third option provided by I.C. § 20-501 and used by Judge Peterson is found in the italicized portion of that statute. Idaho Code § 20-501 describes the first two components of the juvenile corrections system used by Judge Peterson as follows:

Probation. Probation officers would have twenty-four (24) hour on call responsibility for juvenile offenders and would monitor their activities on a continual basis. Probation officers would be responsible for assisting juvenile offenders and their families in accessing counseling or treatment resources, close supervision of juvenile offenders' activities, supervision of restitution and coordination of other services provided to juvenile offenders. Juvenile offenders ordered into the custody of the department of juvenile corrections would be monitored by a county probation officer.

\* \* \*

Secure facilities. Secure facilities would provide secure confinement, discipline, education and treatment of the most seriously delinquent juvenile offenders. Programs at the secure facilities would be designed to help juvenile offenders recognize accountability for delinquent behavior by confronting and eliminating delinquent norms, criminal thinking and antisocial behavior and making restitution to victims through community service or other restitution programs.

The third option used by Judge Peterson, mentioned above in italics, is to commit a juvenile to the custody of the Department of Juvenile Corrections. The Department of Juvenile Corrections' duties are described in I.C. § 20-504.

Judge Peterson did not lose jurisdiction over Maitland even if Maitland had racked

up more than 90 days detention by the time Judge Peterson committed Maitland to the Department of Juvenile Corrections on March 24, 2016. Jurisdiction is set forth in I.C. § 20-505, and jurisdiction was complete when Maitland committed a battery, a crime and a violation of state law if committed as an adult. I.C. § 20-505(1). Jurisdiction is then kept or “retained” by the court over Maitland until he reaches the age of 21, as set forth in I.C. § 20-507, which reads in pertinent part:

**Retention of Jurisdiction.** - Jurisdiction obtained by the court in the case of a juvenile offender shall be retained by it for the purposes of this act until he becomes twenty-one (21) years of age, unless terminated prior thereto.

Maitland’s argument on appeal is difficult to understand. Maitland, after admitting Idaho Juvenile Rule 18(c), “...could be read to allow the court to commit a juvenile for a probation violation even if no suspended time is available,” Maitland then argues: “However, Idaho Code §§ 20-520, 19-2601, and 19-2603 limits the court’s jurisdiction when the defendant’s ordered suspended time is served or probation expires; whichever is first.” Appellant’s Brief in Support of Appeal, p. 5. The problem for Maitland is, those three statutes do nothing to support such a claim.

The Court will address the last statute referenced by Maitland first. This Court specifically finds there is no language in I.C. § 19-2603 which makes it applicable to the Juvenile Corrections Act.

The Court further finds the other two statutes cited by Maitland do nothing to support his legal argument.

Maitland argues I.C. § 19-2601 supports his claim that Judge Peterson lost jurisdiction. Appellant’s Brief in Support of Appeal, p. 5. Maitland argues:

Under I.C. § 19-2601, the county may commute the sentence and confine the defendant, suspend the execution of judgment at the time of judgment and place the defendant on probation, or withhold judgment and place the

defendant on probation under such terms and conditions as it deems is necessary. Lastly, under Idaho Code § 19-2603, after a probation violation the court may revoke probation and issue any judgment which was suspended. Under these statutes a court loses [sic] jurisdiction over the juvenile/defendant when the maximum time ordered is served.

*Id.* There is no citation given by Maitland to support that last sentence, which is Maitland's legal conclusion. That last sentence does not even logically follow the premises set forth in Maitland's first two sentences in that quote above. Maitland then goes on to claim, again without citation to any authority: "Probation cannot exist when there is no suspended time."

*Id.*

First of all, this statement ignores the factual reality that at the present time, Maitland is not on probation, he is on a commitment. A commitment to the Department of Juvenile Corrections can certainly occur when there is no "suspended time." In fact, that is exactly what happened here, where Judge Peterson suspended commitment prior to imposing suspended time (although that subsequent imposition was to correct an oversight). Given the range of options given under I.C. § 20-520(1), it is entirely possible for a magistrate to impose direct commitment to a Department of Juvenile Corrections' facility as his or her sentencing decision, with no probation ever imposed and no suspended time in a secure facility ever imposed.

Second, such argument ignores the fact that none of the 19 responses available to the sentencing magistrate under I.C. § 20-520, are necessarily mutually exclusive. One, or any number of those 19 responses in combination, are available to the sentencing judge. Probation may be used with imposition of time in a secure facility. I.C. § 20-520(1)(a) and (c). Probation may be used *after* completion of service of time in commitment. I.C. § 20-520(1)(a). Driving privileges may be restricted or suspended, evaluations may be ordered, treatment may be ordered, and the magistrate may "order such other terms, conditions,

care or treatment as appears to the court will best serve the interests of the juvenile offender and the community.” I.C. § 20-520(1)(g),(h),(i) and (o).

An analogy may be made to the sentencing scheme governing adult felony offenses. Idaho Code § 19-2601 likewise gives various options to the sentencing judge. Again, these options are not necessarily mutually exclusive. For example, with a felony, a district judge could initially withhold judgment and sentence, and place a person on a period of probation. Later, after a probation violation, the judge must then then impose a prison sentence, but still has the discretion to continue probation, utilize a period of retained jurisdiction, or simply impose that prison sentence.

With an adult felony offense, the sentencing judge can withhold judgment and place the person on probation. As part of the terms of probation, the sentencing judge may impose local jail time *even though no prison sentence has been imposed*. Jail time is served even though no sentence is imposed. Not only that, but if a prison sentence is later imposed and the defendant is sent to prison, the defendant is not necessarily allowed credit for that time served in the county jail as a term and condition of probation. *State v. Jakoski*, 132 Idaho 67, 68, 966 P.2d 663, 664 (Ct.App. 1998); *citing State v. Buys*, 129 Idaho 122, 125-127, 922 P.2d 419, 422-423, *citing State v. Banks*, 121 Idaho 608, 610, 826 P.2d 1320, 1322 (1992). This illustrates the fact that probation and prison are two separate concepts.

This court finds that if it sentenced an adult felon to one year in the penitentiary, and, either through local jail time and/or a period of retained jurisdiction all that year was served, then, the court could still place him on probation. While the court could not incarcerate further based on his sentence, there would still be means by which the court could enforce those terms, short of service of jail or prison time. The court could still utilize contempt

powers to enforce those probation terms at a later probation violation hearing. At the very least, the court could still find the defendant did not successfully complete probation (thus, foreclosing later dismissal) as a result of any future probation violation, even though all of the prison sentence had been served.

Back to the world of juvenile justice. This Court finds the gamut set forth under I.C. § 20-520(1) may be used by the sentencing magistrate judge. Just as in the adult felony context where probation and prison are separate concepts, this Court finds local detention time and commitment are separate concepts. Contrary to Maitland's argument, this Court specifically finds that I.C. § 20-520 provided Judge Peterson with jurisdiction, rather than divested him of that jurisdiction. The separate concepts of detention and commitment are discussed (albeit with different terminology) by the Supreme Court of South Carolina, in *State v. Ellis*, 397 S.C. 576 (S.C. 2012) where that court dismissed a juvenile's lack of jurisdiction arguments on appeal.

Maitland then argues at length that his due process rights under the United States and Idaho Constitutions were violated. Appellant's Brief in Support of Appeal, p. 6. Maitland claims: "Idaho Code §§ 20-520, 19-2601, and 19-2603 [are] unconstitutionally vague as applied to Mr. Maitland if the court finds the court retains jurisdiction over him after the maximum sentence has been served." Appellant's Brief in Support of Appeal, p. 6. Maitland then mentions many cases which discuss the consequences of vagueness, none of which are on point to this case because Maitland fails to explain why Idaho Code §§ 20-520, 19-2601 and 19-2603 are vague. Thus, Maitland discusses at length the problem of "vagueness" without ever discussing why these statutes are vague. The Court specifically finds these statutes are not vague.

Next, Maitland makes the claim: "When the maximum sentence has been imposed,



the court will lose jurisdiction.” *Id.* p. 7. Again, no citation is made for that claim. Thus, Maitland’s argument is wholly unsupported.

Finally, Maitland makes his last stand, arguing:

For the court to infer jurisdiction over the juvenile because a probation term remains would lead to absurd results for the following reasons:

1. If a probation term continues after a maximum sentence has been exhausted, probation becomes mandatory and is transformed into a right. Case law has long established probation is a privilege and not a right. *State v. Cornwall*, 95 Idaho 680, 684 (1974).
2. A defendant will be placed in double jeopardy by facing contempt charges for violating the terms of probation; this will result in the juvenile being punished more than the maximum sentence allowable by law. See, *North Carolina v. Pearce*, 395 U.S. 711 (1969) (The Double Jeopardy Clause of the United States Constitution protects against multiple punishments for the same offense).

*Id.*, pp. 7-8. Maitland’s “absurd result” argument is without merit. The first sentence of the first numbered argument above, “if a probation term continues after a maximum sentence has been exhausted, probation becomes mandatory and is transformed into a right,” makes no sense. It also ignores the statutory reality that commitment and imposition of time at a juvenile detention center are entirely different remedies available under I.C. § 20-520(1). The second argument is premature. If probation were imposed after a period of commitment (again, an option specifically allowed under the statute), and if detention were used at that time, then Maitland’s argument would be ripe. Right now it is not.

#### **IV. CONCLUSION AND ORDER.**

For the reasons stated above, all decisions of Magistrate Judge Peterson in this case are affirmed.

IT IS HEREBY ORDERED all decisions of Magistrate Judge Peterson in this case are AFFIRMED.

IT IS FURTHER ORDERED this case is REMANDED to the Magistrate Division for

all further action.

DATED this 3<sup>rd</sup> day of January, 2017

\_\_\_\_\_  
JOHN T. MITCHELL District Judge

**CERTIFICATE OF MAILING**

I hereby certify that on the \_\_\_\_\_ day of January, 2017 copies of the foregoing Order were mailed, postage prepaid, or sent by facsimile or interoffice mail to:

Defense Attorney - Kristen Ann Pearson  
Prosecuting Attorney - Wendy M. Gabriel

Honorable Clark A. Peterson

CLERK OF THE DISTRICT COURT  
KOOTENAI COUNTY

BY: \_\_\_\_\_  
Deputy