

SUPREME COURT DECISIONS

No Supreme Court decisions released during this time.

COURT OF APPEALS DECISIONS

STATE OF IDAHO v. CODY SELLERS

No. 42716

Release date September 1, 2016

Idaho Court of Appeals

GUTIERREZ, Judge

Cody Sellers appealed from his judgment of conviction and sentences for four counts of felony injury to a child and one count of misdemeanor injury to a child. Sellers raised six issues on appeal and the Court of Appeals affirmed the conviction. In its decision the Court held that Sellers did not show that the court erred by reinstructing the jury as to the missing felony element because the court acted within its mandate in correcting the initial erroneous instruction. Additionally, Sellers did not shown fundamental error as to his claim that the jury improperly convicted him of a misdemeanor on Count III. Sellers did not show a double jeopardy violation as to Counts IV and V because the acts underlying the charges were distinct and independent crimes. Also, Sellers did not establish a violation of his constitutional right to an impartial jury because he did not show that a bias juror sat on the jury. Regarding his sentences, Sellers did not shown that the court imposed excessive sentences, and his argument that the Count III sentence is illegal was not properly preserved for appellate consideration. As to Sellers' claim the court improperly submitted and sentenced Count IV as a felony, Sellers did not provide argument or authority to support that claim, and thus waived the issue for appellate consideration. Finally, the cumulative error doctrine does not apply because Sellers has not shown any error by the district court. Affirmed.

<http://www.isc.idaho.gov/opinions/SELLERS.pdf>

*Summary of Supreme Court and Court of Appeals Published Opinions
August 25 - September 6, 2016
Compiled by Stephen Kenyon, Clerk of the Courts*

STATE OF IDAHO v. EVERETT C. GOTTARDI

No. 43354

Release date September 1, 2016

Idaho Court of Appeals

HUSKEY, Judge

Everett C. Gottardi appeals from his judgment of conviction for possession of a controlled substance, methamphetamine. Specifically, Gottardi alleges the district court erred in denying his motion to suppress. Officers had been conducting a surveillance of an apartment and watched Gottardi come and go (officers looking for someone else) as Gottardi approached the door of the apartment a plain closed officer walked up and asked Gottardi to step aside while he knocked. The suspect answered the door and in the superseding moments several police officers arrived to detain the suspect inside the apartment. During this time an officer asked Gottardi if he had any weapons on him, he responded that he had a knife. Gottardi filed a motion to suppress drugs found in Gottardi's possession, claiming fruit of a poisonous tree.

The Court of Appeals held there was no seizure when the officer told Gottardi to move back. Even if there was a seizure, the seizure was a lawful investigatory detention based on the officer's reasonable, articulable suspicion that Gottardi was involved in criminal activity. Alternatively, it was reasonable for officers to detain Gottardi when they executed an arrest warrant for a third party. Finally, there is substantial evidence in the record to support the district court's conclusion that it was objectively reasonable for the officer to frisk Gottardi. Affirmed.

<http://www.isc.idaho.gov/opinions/GOTTARDI.pdf>