

SUPREME COURT DECISIONS

STATE OF IDAHO v. CESAR A. SEPULVEDA

No. 42758

Release date November 3, 2016

Idaho Supreme Court

BURDICK, Justice

The Idaho Supreme Court affirmed the Ada County District Court's jury verdict finding Cesar Antonio Sepulveda guilty of felony intimidating of a witness, misdemeanor domestic battery, injury to a child, and two counts of attempted violation of a no contact order. The Court ruled that Sepulveda's right to confront witnesses, right to present a defense, and right to be free from double jeopardy were not violated and therefore his convictions were upheld.

<http://www.isc.idaho.gov/opinions/42758X.pdf>

MIGUEL COSIO-NAVA v. STATE OF IDAHO

No. 43389

Release date November 2, 2016

Idaho Supreme Court

J. JONES, Chief Justice

The Supreme Court affirmed the decision of the Jerome County district court dismissing Miguel Cosio-Nava's petition for post-conviction relief. Cosio-Nava alleged that his trial counsel provided him ineffective assistance by failing to advise him of the immigration consequences of pleading guilty to the felony offense of domestic battery with traumatic injury.

<http://www.isc.idaho.gov/opinions/43389.pdf>

STATE OF IDAHO v. SCOTT LEWIS OSTLER

No. 43915

Release date November 2, 2016

Idaho Supreme Court

HORTON, Justice

In an appeal from Bear Lake County, the Supreme Court affirmed Scott Ostler's conviction for three counts of lewd conduct and one count of sexual abuse of a minor. After Ostler's first trial a jury found him guilty of three felonies: two counts of lewd conduct and one count of sexual abuse of a minor. The district court subsequently set

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aside Ostler's guilty verdict and ordered a new trial because the State charged Ostler with conduct that may have occurred while he was younger than fourteen. On retrial, the State charged Ostler with an additional fourth felony lewd conduct charge. On appeal, Ostler argued the State committed fundamental error, violating Ostler's right to due process by conducting a vindictive prosecution, when the State added the fourth charge after the mistrial. The Court of Appeals vacated Ostler's fourth lewd conduct conviction and decided that the addition of the fourth felony charge after a mistrial had raised a presumption of vindictiveness. The Supreme Court granted the State's petition for review. The Supreme Court affirmed Ostler's conviction because Ostler's failure to object below deprived the State of an opportunity to rebut the presumption of vindictiveness.

<http://www.isc.idaho.gov/opinions/43915summ.pdf>

STATE OF IDAHO v. MARCELINO B. BAEZA

No. 42988

Release date November 2, 2016

Idaho Supreme Court

HORTON, Justice

In an appeal from Blaine County, the Supreme Court affirmed the district court's judgment of conviction of Marcelino Baeza for one count of felony lewd conduct with a minor child under the age of sixteen. The Court held that using the alternative method of closed-circuit video testimony for a child witness does not present a level of inherent prejudice such that it violates a defendant's due process right to a fair trial and the presumption of innocence because it focuses on the treatment of the child witness in the eyes of the jury, not the treatment of the defendant. The Court also held that the district court adequately considered all factors under Idaho Code section 9-1806 when it ordered the use of alternative methods of testimony.

<http://www.isc.idaho.gov/opinions/42988.pdf>

JOHN DOE (2016-20) v. IDAHO STATE BAR

No. 44219

Release date November 2, 2016

Idaho Supreme Court

J. JONES, Chief Justice

The Supreme Court affirmed a decision of the Professional Conduct Board of the Idaho State Bar imposing a private reprimand against an attorney who failed to correct a

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material misstatement of fact to a federal judge in a court proceeding in the U.S. District Court for Idaho.

<http://www.isc.idaho.gov/opinions/44219.pdf>

VICTORIA H. SMITH v. TREASURE VALLEY SEED COMPANY, LLC

No. 42596

Release date November 2, 2016

Idaho Supreme Court

BURDICK, Justice

The Idaho Supreme Court vacated the Ada County district court's award of attorney fees to Treasure Valley Seed Company under Idaho Code section 12-121. The Court held that the district court erred by entering the award of attorney fees jointly and severally against Victoria Smith and Vernon Smith, as counsel, because Idaho Code section 12-121 does not permit attorney fees to be assessed against counsel. Thus, the Court vacated the award of attorney fees and remanded the case for further proceedings.

<http://www.isc.idaho.gov/opinions/42596.pdf>

DRUG TESTING COMPLIANCE GROUP, LLC v. DOT COMPLIANCE SERVICE

No. 43458

Release date November 2, 2016

Idaho Supreme Court

J. JONES, Chief Justice

The Supreme Court reversed a monetary judgment in favor of Drug Testing Compliance Group against DOT Compliance Service in this Ada County case. The Court held that the district court should have granted the Appellants' motion for directed verdict on the tortious interference with contract claim and their motion for judgment notwithstanding the verdict on a breach of the covenant of good faith and fair dealing claim.

<http://www.isc.idaho.gov/opinions/43458.pdf>

CNW, LLC v. NEW SWEDEN IRRIGATION DISTRICT

No. 43005

Release date November 2, 2016

Idaho Supreme Court

HORTON, Justice.

In an appeal from Bonneville County, the Supreme Court vacated the district court's judgment dismissing the action and remanded the case for further proceedings. CNW appealed the district court's entry of summary judgment dismissing its negligence case after the district court found that CNW had failed to comply with the presentment

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requirement of the Idaho Tort Claims Act found in Idaho Code section 6-906. The Supreme Court held that CNW had complied with Idaho Code section 6-906 when it sent a notice of tort claim to New Sweden Irrigation District in care of New Sweden's attorney Jerry Rigby who then forwarded the notice to NSID's secretary

<http://www.isc.idaho.gov/opinions/43005.pdf>

JOHN DOE I and JANE DOE I v. JANE DOE II (2016-23)

No. 44268

Release date November 2, 2016

Idaho Supreme Court

BURDICK, Justice

The Idaho Supreme Court affirmed the Payette County magistrate court's judgment terminating Jane Doe's parental rights to her two children. The Court affirmed that clear and convincing evidence established that Jane Doe abandoned her children. Additionally, the Court affirmed that clear and convincing evidence established that Jane Doe neglected her children.

<http://www.isc.idaho.gov/opinions/44268.pdf>

JAMES ADAM SLAVENS v. MELANIE SLAVENS

No. 43743

Release date November 2, 2016

Idaho Supreme Court

BURDICK, Justice

The Idaho Supreme Court vacated the Bonneville County district court's declaratory judgment as to the parties' rights in Twin G Holdings, LLC. After concluding that the district court had jurisdiction over the case, the Court held that the district court abused its discretion by admitting certain evidence. Specifically, the Court concluded that the Deadman's Statute, Idaho Code section 9-202(3), barred the affidavit of Johnny Slavens because the affidavit contained testimony of alleged oral agreements with Jim Slavens, who is deceased. Accordingly, the Court vacated the district court's declaratory judgment and remanded the case for further proceedings.

<http://www.isc.idaho.gov/opinions/43743.pdf>

THOMAS C. MILLARD v. ABCO CONSTRUCTION, INC.

No. 43618

Release date November 2, 2016

Idaho Supreme Court

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BURDICK, Justice

The Idaho Supreme Court, although disagreeing with the Idaho Industrial Commission's (Commission) reasoning, affirmed the Commission's order that certain medical payments were payable at the statutorily scheduled fee amounts rather than the full invoiced amounts. Specifically, the Court affirmed the Commission because the Commission never deemed certain treatment compensable and not because Surety had paid the bills before the Commission issued its decision

<http://www.isc.idaho.gov/opinions/43618.pdf>

JANE DOE I (2016-7) v. JOHN DOE I
No. 43920
Release date November 2, 2016
Idaho Supreme Court

BURDICK, Justice

The Idaho Supreme Court reversed the Madison County magistrate court's decision modifying the parties' initial custody order. The Court held that the magistrate court abused its discretion by modifying the parties' initial custody order because the evidence was insufficient as a matter of law to establish that Mother had engaged in alienating behavior. Accordingly, the Court reversed the magistrate court's decision and remanded the case with instructions for the magistrate court to reinstate the initial custody order.

<http://www.isc.idaho.gov/opinions/43920.pdf>

MARTIN FRANTZ v. HAWLEY TROXELL ENNIS & HAWLEY LLP
No. 43576
Release date November 2, 2016
Idaho Supreme Court

J. JONES, Chief Justice

The Supreme Court affirmed the decision of the Kootenai County district court dismissing Martin Frantz' legal malpractice claim against Hawley Troxell Ennis & Hawley, LLP. The Court held that the dismissal was appropriate because Frantz' complaint alleged he had an attorney-client relationship with the Hawley Troxell law firm, even after a judge in the U.S. Bankruptcy Court had ruled otherwise. The latter ruling is pending on appeal before the U.S. Ninth Circuit Court of Appeals. The Supreme Court upheld the district court's dismissal based upon Rule 12(b)(8) of the Idaho Rules of Civil Procedure—another action pending between the same parties for the same cause.

<http://www.isc.idaho.gov/opinions/43576.pdf>

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JESSICA E. BARR v. IDAHO DEPARTMENT OF LABOR

No. 43122

Release date November 2, 2016

Idaho Supreme Court

HORTON, Justice

In an appeal from the Idaho Industrial Commission (Commission), the Supreme Court affirmed the Commission's decision and order which affirmed the decision of an Appeals Examiner for the Idaho Department of Labor (IDOL). Jessica Barr appealed the decision of the Commission that found her ineligible for unemployment benefits because she was discharged for misconduct in connection with her employment. The Supreme Court held that substantial and competent evidence supported the Commission's decision. The Supreme Court awarded IDOL its costs on appeal.

<http://www.isc.idaho.gov/opinions/43122.pdf>

PATH TO HEALTH v. DAREN LONG

No. 42313

Release date November 2, 2016

Idaho Supreme Court

HORTON, Justice.

In an appeal from Bonneville County, the Supreme Court affirmed in part and reversed in part the district court's dismissal of negligence, contract, and fraud claims brought by Path to Health, LLP (Path) against a realtor, Darren Long, and RE/MAX ALL-IN REALTORS (Realtors). The claims arose from Path's 2011 purchase of an office for its holistic health business. Path alleged that Realtors represented that the office was zoned for commercial use when it was actually zoned for residential use. In March of 2014 the district court entered summary judgment dismissing Path's negligence, contract, and fraud claims. Path appealed. The Supreme Court affirmed the dismissal of Path's negligence claim, holding the economic loss rule barred Path's claim. The Supreme Court reversed the district court's grant of summary judgment on Path's breach of contract claim, holding that the parties' contract incorporated duties under Idaho law that required Realtors to exercise reasonable skill and care and disclose adverse material facts. The Supreme Court reversed the dismissal of Path's fraud claim, holding that there was a genuine issue of material fact as to whether Path justifiably relied on Realtors' alleged misrepresentation as to the status of the zoning.

<http://www.isc.idaho.gov/opinions/42313.pdf>

COURT OF APPEALS DECISIONS

MICHAEL T. HAYES v. TOM KESSLER

No. 43327

Release date November 4, 2016

Idaho Court of Appeals

GUTIERREZ, Judge

Michael T. Hayes appeals from the district court's order granting summary judgment on his 42 United States Code § 1983 claim in favor of Tom Kessler and Melodee Armfield. Hayes presents nine issues on appeal: (1) the district court should have allowed discovery; (2) the complaint stated multiple claims upon which relief could be granted; (3) the pleadings stated genuine issues of disputed material facts; (4) Hayes had arguable and nonfrivolous claims to pursue; (5) the district court's findings of fact were not supported by any reasonable interpretation of the case evidence; (6) the district court's conclusions of law were not in compliance with federal and state law; (7) the district court should have allowed Hayes to amend his complaint; (8) the district court erred in deciding questions of material fact in favor of Respondents; and (9) the district court erred in granting summary judgment in favor of Respondents. The evidence before the district court revealed that there were no genuine issues as to any material facts regarding Hayes' claims of constitutional violations. The district court did not err in granting Respondents' motion for summary judgment. Affirmed.

<https://www.isc.idaho.gov/opinions/43327.pdf>

CLAYTON ROBERT ADAMS v. STATE OF IDAHO

No. 42920

Release date November 4, 2016

Idaho Court of Appeals

MELANSON, Chief

Judge Clayton Robert Adams appeals from the district court's judgment summarily dismissing Adams's petition for post-conviction relief and the district court's order denying Adams's motion for reconsideration. Adams was driving a motor vehicle with four male passengers when Adams and the three backseat passengers became involved in an argument. An altercation ensued after Adams abruptly stopped the vehicle and the three backseat passengers exited the vehicle. It was alleged that, during the altercation, Adams stabbed two of the men, the second of whom later died from his injuries. Adams was charged with first degree premeditated murder or, in the alternative, first degree felony murder; three counts of attempted robbery; and one count of aggravated battery. On appeal, Adams argues the district court erred in summarily dismissing his petition for post-conviction relief. Specifically, Adams claims the district court abused its discretion in denying Adams's motion for investigative services to locate two witnesses. Adams also alleges trial counsel was ineffective and that the cumulative effect of trial counsel's

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deficient performances denied Adams of his Sixth Amendment right to counsel. Finally, Adams argues the district court erred in denying Adams's motion for reconsideration of the order summarily dismissing his petition. Accordingly, the district court's judgment summarily dismissing Adams's petition for post-conviction relief and order denying Adams's motion for reconsideration were affirmed.

<http://www.isc.idaho.gov/opinions/42920.pdf>

STATE OF IDAHO v. DOUGLAS RAYMOND COLVIN

No. 43443

Release date November 4, 2016

Idaho Court of Appeals

MELANSON, Chief Judge

Douglas Raymond Colvin appeals from the district court's order denying his motions to correct an illegal sentence, withdraw his guilty plea, and for appointment of standby counsel. Colvin failed to show that the district court erred when it denied Colvin's motion to correct an illegal sentence. The district court lacked jurisdiction to consider Colvin's motion to withdraw his guilty plea. The district court did not abuse its discretion in denying Colvin's motion for appointment of standby counsel. Accordingly, the district court's order denying Colvin's motions to correct an illegal sentence, to withdraw his guilty plea, and for appointment of standby counsel is affirmed

<http://www.isc.idaho.gov/opinions/43443.pdf>