

SUPREME COURT DECISIONS

ACI NORTHWEST, INC. v. MONUMENT HEIGHTS, LLC

No. 41269

Release date: January 21, 2015

Idaho Supreme Court

WALTERS, Justice *pro tem*

In a case arising out of Kootenai County, ACI Northwest Inc. (ACI) sought judicial foreclosure of its two mechanic's liens on property encumbered by two deeds of trust. The district court determined that ACI's liens were lost and unenforceable against the property because ACI failed to name or join the trustees in its action within the six-month statute of limitations in Idaho Code section 45-510. Thus, the district court granted summary judgment to Monument Heights LLC, Dan Jacobson, Sage Holdings LLC, Steven Lazar, the Mitchell A. Martin and Karen C. Martin Family Trust dated August 9, 2005, Devon Chapman, HLT Real Estate LLC, Anthony St. Louis, Andrea Stevens, and Lilly Properties Inc. ACI appealed to the Idaho Supreme Court.

This Court reaffirmed its holding in *ParkWest Homes, LLC v. Barnson (ParkWest II)*, 154 Idaho 678, 302 P.3d 18 (2013), that an action to enforce a mechanic's lien on property encumbered by a deed of trust must name the trustee, who hold legal title to the property, within the statutory time limitation in Idaho Code section 45-510. Failure to name the trustee within the prescribed time limitation results in the mechanic's lien being lost against legal title, the trustee's interest in the property. This Court determined that the district court properly applied *ParkWest II* and therefore affirmed the district court's decision.

<http://www.isc.idaho.gov/opinions/41269.pdf>

COURT OF APPEALS DECISIONS

BARRY SEARCY v. BOARD OF CORRECTION

No. 41216

Release date: January 14, 2015

Idaho Court of Appeals

MELANSON, Chief Judge

Barry Searcy appeals from the district court's order granting summary judgment in favor of Idaho State Board of Correction, et al. in an action challenging the assessment of fees by correctional institutions. Searcy is an inmate at the Idaho State Correctional Institution in Boise. On May 18, 2011, Searcy filed a civil complaint. Count I of Searcy's complaint alleged that the raising of revenue for use by the IDOC, through the above-described fees, exceeds and violates the scope of rulemaking authority granted under I.C. § 20-212 and causes a forfeiture of his property in violation of I.C. § 18-314. Searcy's complaint also alleged that

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the raising of revenue invades the province of the legislature in violation of the provisions of Article II, Section 1; Article VII, Sections 2, 5, and 16; and Article X, Section 1 of the Idaho Constitution. Count II alleged negligence under the Idaho Tort Claims Act and conversion. Count III alleged civil conspiracy. The district court did not err in determining that the subject fees are valid user fees, not unconstitutional taxes. Moreover, funds to support the Idaho penal system may be raised by means other than taxation, as it is the legislature that is empowered to prescribe the support of the IDOC through the budget and appropriation process. Finally, the Board did not violate the separation of powers by implementing the subject fees because it is statutorily and constitutionally authorized to do so. Affirmed. Judge GRATTON, **SPECIALLY CONCURRING**

<http://www.isc.idaho.gov/opinions/41216.pdf>

DENNIS RAYMOND HEILMAN v. STATE OF IDAHO

No. 41240

Release date: January 13, 2015

Idaho Court of Appeals

MELANSON, Chief Judge

Dennis Raymond Heilman appeals from the summary dismissal of his successive petition for post-conviction relief. Heilman filed a pro se petition for post-conviction relief in 2008, asserting that his trial counsel provided ineffective assistance by failing to timely file his direct appeal, file an I.C.R. 35 motion, and advise him of his Fifth Amendment right to refuse to participate in a psychosexual evaluation. Heilman argues that the district court erred in summarily dismissing his successive petition for post-conviction relief. Specifically, he claims that he raised a genuine issue of material fact as to each claim made in his successive petition. The Court held that Heilman failed to provide a sufficient reason for failing to assert his claims regarding ineffective assistance of his trial counsel in his initial petition for post-conviction relief. Heilman also failed to raise a genuine issue of material fact regarding his ineffective assistance of appellate counsel claims. Affirmed.

<http://www.isc.idaho.gov/opinions/41240.pdf>

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STATE OF IDAHO v. RUSSELL ALLEN PASSONS

No. 41228

Release date: January 15, 2015

Idaho Court of Appeals

GRATTON, Judge

Russell Allen Passons appeals from his judgment of conviction for two counts of aggravated assault, Idaho Code §§ 18-901, 18-905, and one count of burglary, I.C. § 18-1401. Passons argues the district court erred by admitting character evidence unrelated to the charged crimes, and by denying his motions for a mistrial. The Court found that the district court properly admitted evidence relating to Passons' conduct the day after the charged offenses. Passons also failed to show reversible error based on a juror's comments on tattoos and an officer's comments indicating Passon being a possible robbery suspect.

<http://www.isc.idaho.gov/opinions/41288X.pdf>