

SUPREME COURT DECISIONS

No opinions released

COURT OF APPEALS DECISIONS

STATE OF IDAHO v. HARLEY GOMEZ

No. 44257

Release date March 17, 2017

Idaho Court of Appeals

GRATTON, Chief Judge

Harley Gomez appeals from the district court's order denying his motion to dismiss. Gomez pled guilty to felony grand theft, Idaho Code §§ 18-2403(1), 18-2407(1)(b). The district court withheld judgment and placed Gomez on probation for five years. One of the terms of Gomez's probation was that he "shall be a law-abiding citizen and shall commit no misdemeanors or felonies." During the probationary period, Gomez pled guilty to misdemeanor disturbing the peace, I.C. § 18-6409, in another county. The prosecutor was not advised of the disturbing the peace conviction and, therefore, did not file a probation violation charge in the present case. After the probationary period Gomez filed a motion to dismiss the withheld judgment, the state objected. The Court of Appeals held that the district judge did not make the necessary determinations to grant or deny the relief. The trial Court's order denying the motion to dismiss was reversed.

<https://isc.idaho.gov/opinions/44257.pdf>