

SUPREME COURT DECISIONS

RANDY HOFFER v. SCOTT A. SHAPPARD, D.O.

No. 42087

Release date September 28, 2016

Idaho Supreme Court

In an appeal from Ada County, the Idaho Supreme Court affirmed an \$847,974.46 judgment against Scott Shappard, D.O., Genesis Medical Center, P.A., and St. Alphonsus Regional Medical Center (collectively “Providers”). The judgment was entered after a jury trial in a case filed by Randy and Galyena Hoffer on behalf of their minor child, J.H. The jury found that Dr. Shappard negligently and recklessly failed to diagnose J.H. with developmental dysplasia of the hip. After trial, Providers alleged the jury made a mistake in filling out the special verdict form. Dr. Shappard brought post-trial motions to correct the verdict, grant a new trial, and grant a motion for judgment notwithstanding the verdict. The district court denied these motions. The Supreme Court affirmed the denial of these motions and the district court’s ruling on other trial-related issues. The Supreme Court also awarded the Hoffers attorney fees. **In doing so, the Supreme Court announced a significant new rule of law that will become effective March 1, 2017.** The Supreme Court held that the plain language of Idaho Code section 12-121 and a 1987 statement of legislative intent grant courts broad authority to award attorney fees to prevailing parties in civil actions “when justice so requires.” The Supreme Court analyzed the Hoffers’ request for attorney fees under the current standard governing requests for attorney fees under Idaho Code section 12-121, found that Providers’ appeal was frivolous, and awarded attorney fees and costs to the Hoffers.

<http://www.isc.idaho.gov/opinions/42087.pdf>

NANCY J. SHEPHERD v. JOHN M. SHEPHERD

No. 42938

Release date September 29, 2016

Idaho Supreme Court

In an appeal from Kootenai County, the Supreme Court affirmed the decision of the district court affirming the magistrate court’s order granting in part and denying in part Nancy Shepherd’s motion to modify a decree of divorce. Nancy argued the district court erred in not setting aside John Shepherd’s child visitation rights under the divorce decree because the magistrate court lacked subject matter jurisdiction to give a non-parent custody rights and the child’s biological father, Ralph Bartholdt, was not a party to the

*Summary of Supreme Court and Court of Appeals Published Opinions
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divorce. The Supreme Court concluded that Nancy's claim of legal error did not render the divorce decree and child custody determination void for lack of subject matter jurisdiction and that Nancy lacked standing to claim the judgment was void as a violation of Ralph's constitutional right to due process. The Supreme Court found Nancy's appeal to be frivolous and awarded attorney fees and costs on appeal to John.

<http://www.isc.idaho.gov/opinions/42938.pdf>

COURT OF APPEALS DECISIONS

STATE OF IDAHO v. ALDEN LAMAR HOAGLAND, JR.

No. 43336

Release date September 27, 2016

Idaho Court of Appeals

MELANSON, Chief Judge

In 2005, a grand jury indicted Alden Lamar Hoagland, Jr. on one count of lewd conduct with a minor under sixteen. Pursuant to a plea agreement, the district court amended the indictment without resubmitting the matter to a grand jury. The district court amended the indictment by striking out language and replacing the relevant allegations and code sections in handwriting. The amended indictment was not signed by the foreman of the grand jury or the prosecutor. Specifically, the amended indictment changed the charging language from lewd conduct with a minor to sexual abuse of child and changed the Idaho Code section from 18-1508 to 18-1506(b). The Court held, when an indictment is amended at the request of the State with the consent of the defendant and the defendant then pleads guilty to the amended charge, the charging document may be treated as an information so long as it is sufficient to confer subject matter jurisdiction. The labeling of the document as an information and the absence of the prosecuting attorney's signature are nonjurisdictional defects. Hoagland was not prejudiced by those defects, and they were waived by his guilty plea, as was his right to a preliminary hearing. Affirmed.

<http://www.isc.idaho.gov/opinions/42396.pdf>

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STATE OF IDAHO v. WILLIAM SCOTT DEMINT
No. 43367
Release date September 28, 2016
Idaho Court of Appeals

HUSKEY, Judge

William Scott Demint appealed from his judgment of conviction for trafficking in a controlled substance, methamphetamine, and possession of an illegal firearm and argues the district court erred by denying his motion to suppress the evidence obtained from the search of his enclosed truck bed because probable cause dissipated once the drug dog failed to alert inside the passenger compartment. The State argued Demint did not properly preserve this argument on appeal. However, the State contends even if the issue was properly preserved, because the initial alert established probable cause to search the entire vehicle, the failed alert in the passenger compartment did not prevent officers from also searching the enclosed bed. The Court held that Demint may not claim the district court's decision was in error based on an argument that was never presented to the district court for consideration. Appellate courts are forums of review, not decision in the first instance. Because Demint did not raise his dissipation argument before the district court, it was not preserved for appeal. Affirmed.

<http://www.isc.idaho.gov/opinions/43367.pdf>