

SUMMARY STATEMENT

Molen v. Christian, Docket No. 43755

In a case arising out of Ada County, the Idaho Supreme Court vacated the district court's summary judgment dismissal of a legal malpractice action brought against Ronald Christian ("Christian"). The malpractice action stemmed from Christian's defense of criminal charges brought against Michael Scott Molen ("Molen"). The crux of Molen's appeal was whether the statute of limitations on his malpractice cause of action had accrued at the time of his initial criminal conviction in 2007 or when he was later exonerated in 2014. In granting summary judgment in favor of Christian, a district court made two holdings: (1) Molen's malpractice cause of action against Christian accrued at the time of Molen's initial conviction, and (2) whether actual innocence is an element of a legal malpractice claim arising from a criminal conviction would only be an issue if the Idaho Supreme Court adopts the exoneration rule. Generally, the exoneration rule requires a convicted party to obtain direct or collateral relief on that conviction prior to filing suit against a criminal defense attorney for legal malpractice.

The Idaho Supreme Court held that Molen's malpractice cause of action did not accrue until he was exonerated, which occurred on July 10, 2014. The Court explained that if the exoneration rule was not adopted, a convicted defendant would have to file two lawsuits simultaneously: (1) a malpractice claim, and (2) an appeal and/or post-conviction relief proceeding. The malpractice claim would serve as a protective lawsuit to prevent the claim from being later barred by the statute of limitations, and the appeal and/or post-conviction proceeding, if successful, would be the basis for the malpractice action. The Court held that such a result would be contrary to this Court's holding in *City of McCall v. Buxton*, 146 Idaho 656, 663, 201 P.3d 629, 636 (2009). That is, the Idaho Supreme Court does not favor protective lawsuits that must be filed only to be stayed.

Additionally, the Court held that actual innocence is not an element of a criminal malpractice cause of action because: (1) requiring a plaintiff to prove actual innocence is contrary to the fundamental principal that a person is presumed innocent until proven guilty beyond a reasonable doubt; (2) a criminal defendant can be harmed separately from the harm he or she incurs as a result of being guilty of a crime; and (3) requiring actual innocence would essentially eliminate a defense attorney's duty to provide competent counsel to a client he or she knows to be guilty. Christian's request for attorney's fees on appeal was denied because he was not the prevailing party. Costs on appeal were awarded to Molen.