

SUMMARY STATEMENT

State v. Jeffrey Lynn Alwin
Docket No. 44553

Jeffrey Lynn Alwin was convicted of one count of eluding a peace officer. Alwin's defense at trial was that he was not the person driving the vehicle. The officer's identification of Alwin was based on a booking photograph, colloquially known as a "mug shot." Alwin objected, arguing that the booking photograph was prohibited propensity evidence under Idaho Rule of Evidence 404(b). Neither party mentioned that it was a booking photograph or explained why the photograph constituted Rule 404(b) evidence. The district court did not see the photograph up close prior to admitting it and consequently did not know it was a booking photograph. As a result, the district court found the photograph did not constitute conduct under I.R.E. 404(b), overruled the objection, and admitted the exhibit.

On appeal, Alwin asserted that the district court erred in admitting the booking photograph, which he contends is prohibited propensity evidence under Idaho Rule of Evidence 404(b). The Idaho Court of Appeals held that the district court had abused its discretion by admitting the booking photograph without first applying the legal standards applicable to the introduction of alleged Rule 404(b) evidence. The Idaho Court of Appeals noted that though the booking photograph lacked the usual incriminating indicia, such as placards and identification numbers, Alwin was dressed in yellow scrubs, recognizable as the jailhouse garb in the county in which the photograph was taken. Accordingly, the Court vacated the judgment of conviction and remanded the case for further proceedings consistent with its opinion.