

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 44710

STATE OF IDAHO, ) 2017 Unpublished Opinion No. 544  
 )  
Plaintiff-Respondent, ) Filed: August 4, 2017  
 )  
v. ) Karel A. Lehrman, Clerk  
 )  
GREGORY ALLEN McATEE, ) THIS IS AN UNPUBLISHED  
 ) OPINION AND SHALL NOT  
Defendant-Appellant. ) BE CITED AS AUTHORITY  
 )

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Appeal from the District Court of the Second Judicial District, State of Idaho, Latah County. Hon. John R. Stegner, District Judge.

Judgment of conviction and unified sentence of five years, with a minimum period of confinement of two years, for felony driving under the influence, affirmed.

Eric D. Fredericksen, State Appellate Public Defender; Kimberly A. Coster, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

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Before GRATTON, Chief Judge; GUTIERREZ, Judge;  
and HUSKEY, Judge

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PER CURIAM

Gregory Allen McAtee pled guilty to felony driving under the influence. Idaho Code §§ 18-8004, 18-8005(6). The district court sentenced McAtee to a term of five years with two years determinate and retained jurisdiction. Following the period of retained jurisdiction, the district court suspended McAtee's sentence and placed him on probation for a period of four years. McAtee appeals asserting that the district court abused its discretion by declining to withhold judgment.

The district court determined that McAtee did not satisfy the requirements to be eligible for a withheld judgment. Specifically, the court found that McAtee had previously “been given the benefit of the DUI Court” and then chose to “drink and drive.” The district court’s finding is supported by the record. The district court did not abuse its discretion in declining to enter a withheld judgment. Therefore, McAtee’s judgment of conviction and sentence are affirmed.