

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 45199

STATE OF IDAHO,)
)
 Plaintiff-Appellant,)
)
 v.)
)
 RANDALL JEROME BILLUPS,)
)
 Defendant-Respondent.)
)
 _____)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Lynn G. Norton, District Judge.

Hon. Lawrence G. Wasden, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for appellant.

R. Thomas Curl, Boise, for respondent.

Randall Jerome Billups filed a motion to suppress evidence obtained as a result of an illegal arrest, which the district court denied, and Billups proceeded to trial. A jury found Billups guilty of conspiracy to traffic in heroin. Billups appealed, challenging only the denial of his motion to suppress evidence obtained after his arrest. The Court of Appeals held the arrest was illegal, and therefore evidence obtained as a result of the illegal arrest required suppression. The Court of Appeals reversed the judgment of conviction but did not remand the case. At a status conference, the State requested the case be set for a new trial. Billups moved to dismiss, arguing the charges against him should be dismissed because the Court of Appeals did not remand the case. The district court agreed, dismissed the charges against Billups, and discharged him from custody.

The State appeals from the district court's grant of Billups' motion to dismiss. The State argues the district court erred by dismissing the charges because the absence of the word "remand" in the Court of Appeals' opinion did not preclude a new trial. Rather, the conclusion was a general reversal, which returned the case to the point at which the alleged error occurred.