

SUMMARY STATEMENT

State of Idaho v. Richard Lowell Hess

Docket No. 45491

Richard Lowell Hess was charged with felony trafficking in heroin and pleaded guilty. Hess acknowledged in the guilty plea advisory form that he agreed to pay the costs of prosecution and investigation, and the State filed written requests for restitution, pursuant to Idaho Code § 37-2732(k). Hess objected to most of the State's restitution request and argued that the State failed to provide sufficient details of the costs. The district court overruled Hess's objection and granted the State's restitution request in its entirety. Hess appealed.

On appeal, the Idaho Court of Appeals ruled that most of the costs associated with the prosecution and investigation of the case were not sufficiently presented in the State's restitution requests. The Court of Appeals relied on *State v. Cunningham*, 161 Idaho 698, 390 P.3d 424 (2017), in which the Idaho Supreme Court held that unsworn representations do not constitute substantial evidence upon which restitution may be based and, at a minimum, satisfying the burden of I.C. § 37-2732(k) will require sworn statements that delineate the time spent performing specific tasks. *Cunningham*, 161 Idaho at 702, 390 P.3d at 428. One restitution request included only unsworn statements and another failed to include any specific tasks, as required by the Supreme Court in *Cunningham*. Because the State's restitution requests failed to provide sufficient evidence of prosecution and investigation costs, the Court of Appeals reversed the district court's restitution order and remanded the case to the district court.