

SUMMARY STATEMENT

State of Idaho v. John Allison Huckabay

Docket No. 46085

John Allison Huckabay was indicted for possession of a moose in violation of Idaho Code §§ 36-1401(c)(3) and 36-1404(a)(2). Huckabay filed a motion to dismiss the second amended indictment, alleging it did not charge a felony offense because Huckabay only possessed a single cow moose, rather than a “combination of numbers or species” of wildlife, as required by the statute. The district court denied the motion. The case proceeded to trial and Huckabay was found guilty of felony unlawful possession of a moose. Huckabay appealed.

On appeal, the Idaho Court of Appeals held that I.C. § 36-1401(c)(3) requires the unlawful killing, possessing, or wasting of more than one animal to constitute a felony offense. Although the indictment conveyed subject matter jurisdiction in this case, the indictment was legally insufficient to establish a felony pursuant to I.C. § 36-1401(c)(3) because it only alleged that Huckabay possessed a single cow moose, rather than a combination of numbers or species of wildlife. The Court of Appeals concluded the district court erred in denying Huckabay’s motion to dismiss and thus, reversed the district court’s order, vacated the judgment of conviction, and remanded the case.