

SUMMARY STATEMENT

Cover v. Idaho Board of Correction, Docket No. 47004

In 2017, Aliza Cover requested records of the Department of Correction (“Department”) relating to the use of the death penalty in Idaho. After the Department responded with just 49 pages, Cover filed a petition in district court to compel the Department to release additional records. Cover cited as authority both the Public Records Act and Idaho Rule of Civil Procedure 74 (“Rule 74”), which governs writs of mandamus. At a show cause hearing before the district court, the Department acknowledged it was withholding certain records. However, it claimed it was authorized to do so under Board of Correction Rule 135 (“Rule 135”), which it claimed created an exemption from disclosure for certain records under the Public Records Act.

After the show cause hearing, and without additional proceedings, the district court held that Rule 135 did create a Public Records Act exemption, but that certain records withheld by the Department were not exempt under the rule. Accordingly, the district court entered a peremptory writ of mandamus compelling the Department to disclose these records to Cover. However, the Department filed a motion for reconsideration, arguing, in part, that the writ was prematurely entered because Rule 74 entitled the Department to a trial following the show cause hearing. Cover opposed the motion, arguing the Public Records Act did not allow for a trial, and to the extent Rule 74 conflicted with the Act, the Act controlled. The district court agreed with the Department, withdrew the peremptory writ, and set a trial date.

Following trial, the district court held that a record referred to as “Bates 654” was not exempt from disclosure under Rule 135, while a record referred to as “Bates 655” was exempt under the rule. The district court also held that a handwritten record of cash payments to individuals involved in an execution (referred to as the “Confidential Cash Log”) was exempt from disclosure under Rule 135, and that records relating to medical supplies used for injecting lethal chemicals were not subject to disclosure because they were beyond the scope of Cover’s request. The Department appealed the district court’s decision requiring release of Bates 654, while Cover cross-appealed the district court’s decision allowing the Department to withhold the other records. Cover also appealed the district court’s decision granting the motion for reconsideration and allowing a trial on the merits after the show cause hearing.

The Supreme Court held that the district court erred by determining records were exempt under Rule 135 because the rule was not promulgated as an exemption to the Public Records Act; erred by determining records relating to medical supplies were beyond the scope of Cover’s request; and erred by allowing a trial after the show cause hearing. Therefore, the Court reversed the district court’s decision to allow the Department to withhold Bates 655, the Confidential Cash Log, and the records relating to medical supplies, and remanded with instructions that the district court (1) determine whether any of these records contain personally-identifying information that Cover asserted she was not seeking and (2) order the Department to release the records to Cover without redaction, except for such information. However, the Court did not reverse the district court’s decision granting the motion to reconsider and allowing a trial because Cover invited the error. Finally, the Court held that Cover was entitled to attorney fees on appeal.

This summary constitutes no part of the opinion of the Court, but has been prepared by court staff for the convenience of the public.