

SUMMARY STATEMENT

Chernobieff v. State

Docket No. 47337

In a case arising out of the Ada County magistrate court, Daniel Chernobieff appealed the Ada County district court's decision on intermediate appeal upholding the magistrate court's summary dismissal of his petition for post-conviction relief.

Chernobieff filed a petition for post-conviction relief following his misdemeanor conviction for driving under the influence of alcohol with an excessive blood alcohol content. He alleged that his defense counsel rendered ineffective assistance because he objected to testimony at a suppression hearing suggesting that the on-call magistrate could not be reached to obtain a warrant because his cell phone ringer was off ("the ringer testimony"). Chernobieff argued that the objection to the ringer testimony was unreasonable and prejudicial because it prevented him from arguing at trial that the State did not have good cause for the on-call magistrate's unavailability. The magistrate court granted the State's motion for summary dismissal, reasoning that the objection was an unreviewable strategic decision and would not have changed the outcome of the case. The district court, sitting in its appellate capacity, affirmed.

The Idaho Supreme Court affirmed the decision of the district court. The Court held that Chernobieff had not raised an issue of material fact with respect to the prejudice prong of *Strickland* because admission of the ringer testimony would not have altered the result of his motion to suppress.

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