

**BOISE, IDAHO, OCTOBER 11, 2024, AT 10:00 A.M.**

**IN THE SUPREME COURT OF THE STATE OF IDAHO**

<b>STATE OF IDAHO,</b>	)	
	)	<b>Supreme Court Docket No. 48486-</b>
<b>Plaintiff-Respondent,</b>	)	<b>2020</b>
	)	
<b>v.</b>	)	<b>Consolidated Docket Nos. 48511-</b>
	)	<b>2020; 49440-2022; 49441-2022; 49442-</b>
<b>LANCE A. ROBERTS,</b>	)	<b>2022; 49443-2022; 49444-2022; 49445-</b>
	)	<b>2022; 49446-2022</b>
<b>Defendant-Appellant.</b>	)	
	)	

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Appeal from the District Court of the Seventh Judicial District of the State of Idaho, Teton County. Jon J. Shindurling, District Judge.

Erik R. Lehtinen, State Appellate Public Defender, Boise, for Appellant.

Raúl R. Labrador, Idaho Attorney General, Boise, for Respondent.

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Lance A. Roberts appeals from the district court’s decision denying his attempts to collaterally attack multiple convictions for driving under the influence over the past two decades.

In 1997, Roberts was convicted of first offense juvenile DUI. In 1998, Roberts, then 17-years-old and unrepresented by counsel, pleaded guilty to adult misdemeanor DUI. Idaho law differentiates between “juvenile” DUIs when someone under 21 years of age operates a vehicle with a blood alcohol concentration of at least 0.02 but less than 0.08, and “adult” DUIs when any person operates a vehicle with a blood alcohol content (“BAC”) over the legal limit. Roberts now alleges that the State erred by charging him with adult DUI because Roberts was under 21 years old and no BAC was recorded showing his BAC above the legal limit for an adult, so he should have been charged with and pleaded guilty to a second juvenile DUI instead of adult DUI.

Over the next eighteen years, Roberts was convicted of four more DUIs. Idaho law mandates that, with some exceptions, first and second offense adult DUIs are misdemeanors, but if the defendant had two adult misdemeanor DUIs or one or more adult felony DUIs in a specified period, subsequent DUIs within that same time period are felonies. However, Idaho law excludes prior juvenile DUIs as a basis for charging a DUI as a felony. Roberts’s next DUI following his 1998 conviction was charged as a misdemeanor, but his next three DUIs were charged as felonies. Roberts was also convicted of felony burglary in the years following his first DUI.

Roberts pleaded guilty to his most recent DUI, third offense felony DUI, in 2016. At the time he pleaded guilty, Roberts also admitted that he had two prior felony convictions, which made

him subject to a persistent violator sentencing enhancement. In 2017, Roberts filed an Idaho Criminal Rule 35 motion to correct his 1998 DUI conviction, arguing that his 1998 DUI conviction was erroneously charged as an adult misdemeanor DUI instead of a second offense juvenile DUI. Roberts contends that subsequent courts relied on the erroneous misdemeanor conviction and that his felony DUI convictions should instead be misdemeanor convictions due to the amount of time that passed between each of the misdemeanor DUI convictions. Roberts argues that his 2016 conviction for felony DUI with a persistent violator enhancement should have instead been charged as misdemeanor DUI, and that the persistent violator enhancement was inapplicable because his only felony conviction was a single burglary conviction.

The magistrate court granted Roberts's Rule 35 motion and amended Roberts's 1998 judgment to reflect a juvenile DUI conviction. Relying on the amended judgment, Roberts filed various motions attacking his prior DUI convictions that were based, in part, on his 1998 DUI conviction. Roberts filed a motion in his second misdemeanor DUI case, arguing he should have been convicted of a first misdemeanor DUI. The magistrate court denied the motion. Roberts also filed Rule 35 motions and petitions for post-conviction relief in his felony DUI cases, attacking the convictions because they relied in part on the 1998 DUI conviction.

Roberts appealed the magistrate court's denial of his Rule 35 motion in his second misdemeanor DUI case. The district court consolidated the appeal with Roberts's other pending Rule 35 motions and petitions for post-conviction relief pending in his felony DUI cases. The district court affirmed the magistrate court's denial of Roberts's Rule 35 motion in his second DUI case and reversed the magistrate court's grant of Roberts's Rule 35 motion in his 1998 DUI case. The district court also denied Roberts's pending Rule 35 motions and petitions for post-conviction relief in his felony DUI cases. Roberts appealed to the Idaho Supreme Court.

In this appeal, Roberts asks the Idaho Supreme Court to reconsider its interpretation of Idaho Criminal Rule 35(a) to allow courts to look beyond the judgment of conviction to determine whether a sentence is illegal because it is based on an erroneous criminal history. Alternatively, Roberts asks the Court to interpret Idaho Code section 19-4901(a), which governs post-conviction relief claims, to allow post-conviction petitioners to correct their criminal history if the petitioner is serving a sentence not authorized by law and the claim is raised within a reasonable time of discovering the error.