

SUMMARY STATEMENT
State of Idaho v. Tyler Shawn Clapp
Docket No. 50409

In this case arising out of Ada County, the Court of Appeals affirmed Tyler Shawn Clapp's judgment of conviction for felony driving under the influence (DUI) and being a persistent violator. Officers initiated a traffic stop after observing a vehicle being driven recklessly. Upon contact, the officers noted that the driver, Clapp, exhibited slurred and slowed speech. After Clapp refused to participate in field sobriety tests and declined to provide either a breath or blood sample, a warrant was obtained for a blood draw, which indicated Clapp's blood alcohol concentration (BAC) was 0.152. At trial, the State moved to prohibit Clapp from presenting evidence or cross-examining the State's witness on "rising BAC," i.e., the notion that a person's BAC may continue to increase for a period of time after ceasing to consume alcohol. The district court granted the State's motion, finding that, if the State did not elicit such testimony from its witness, cross-examination on the subject was not relevant and would not be permitted. A jury found Clapp guilty of felony DUI and, in a bifurcated proceeding, also found him to be a persistent violator.

On appeal, Clapp argued the district court erred by preventing him from presenting evidence of extrapolation or "rising BAC" levels. The Court disagreed, explaining that Clapp was not barred from properly disclosing and presenting expert testimony on "rising BAC." Rather, he was prohibited from eliciting such testimony through cross-examination of a State's witness--a restriction the Court noted also applied to the State on direct examination because the witness lacked the necessary qualifications to testify on that subject. Clapp also contended the district court erred by allowing his BAC test results to be considered under the impairment theory of DUI without any evidence extrapolating those results to the time he was driving. The Court also rejected this argument and held that, because Clapp was charged under both the per se and impairment theories, the test results were relevant even without extrapolation. Finally, because Clapp failed to show the district court erred with respect to either issue he raised on appeal, the Court held that the cumulative error doctrine did not apply. As a result, the Court affirmed Clapp's judgment of conviction.

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