

SUMMARY STATEMENT

State v. Rose

Docket No. 50765-2023

The Idaho Supreme Court vacated the district court's order modifying the judgment of conviction against Kenneth Richard Rose, Jr., for felony driving under the influence. Rose entered a conditional guilty plea wherein he reserved his right to appeal the denial of his motion to suppress. The district court accepted the plea and sentenced Rose to six years in prison, with one year fixed. However, the district judge indicated at the sentencing hearing that it would revisit Rose's sentence after his direct appeal and then stayed the execution of Rose's sentence, citing Idaho Criminal Rule 38.

The Idaho Court of Appeals rejected Rose's appellate arguments and affirmed his judgment of conviction. Following the conclusion of the appeal, the district court indicated it would hold a hearing to revisit Rose's sentence. The State objected, arguing that Rose had already been sentenced and the district court did not have jurisdiction to modify his sentence. Rose then moved the district court for a reduction of sentence pursuant to Idaho Criminal Rule 35(b). The district court concluded that, because execution of Rose's sentence was stayed pending appeal, Rose's Rule 35(b) motion was timely. The district court granted Rose's Rule 35(b) motion and modified his sentence. The State timely appealed, maintaining that the district court acted without jurisdiction.

The Idaho Supreme Court vacated the district court's order modifying Rose's sentence, thereby reimposing his original sentence. The Court held that Rule 35(b) imposes a time limit on the district court's jurisdiction to reduce or modify a sentence. Rose had 120 days from the district court's imposition of sentence to file a motion to reduce his sentence. The Court concluded that the district court's order staying execution of Rose's judgment and sentence pending appeal did not extend or alter the time for Rose to file a Rule 35(b) motion. Rose filed his Rule 35 motion more than three years after his sentence was imposed. Accordingly, the Court held that the district court lacked jurisdiction to modify Rose's original sentence.

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