

BOISE, TUESDAY, APRIL 16, 2024, 10:30 A.M.

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 50802

STATE OF IDAHO,)
)
 Plaintiff-Respondent,)
)
 v.)
)
 RORY DOUGLAS WILSON,)
)
 Defendant-Appellant.)
)

Appeal from the District Court of the Second Judicial District, State of Idaho, Latah County. Hon. John Judge, District Judge. Hon. Megan E. Marshall, Magistrate.

Nevin, Benjamin & McKay, LLP; Dennis A. Benjamin, Boise, for appellant.

Hon. Raúl R. Labrador, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

Rory Douglas Wilson appeals from the decision of the district court, on intermediate appeal from the magistrate court, affirming the withheld judgment entered after a jury found Wilson guilty of violating Moscow City Code Section 10-1-22(A) by posting several “Soviet Moscow” and “Enforced Because We Care” stickers on various property throughout the city without first obtaining consent. Wilson filed a motion to dismiss arguing that: (1) the conduct at issue is not prohibited by the ordinance; (2) the ordinance is unconstitutionally vague; (3) the ordinance and the prosecution based on the ordinance violates his First Amendment rights under the U.S. Constitution; and (4) the prosecution violated his right to equal protection under the Fourteenth Amendment to the U.S. Constitution. The magistrate court denied the motion. The magistrate court later granted the State’s motion in limine which prohibited Wilson from arguing at trial that the stickers were outside the reach of the ordinance because they were not advertising matter. The magistrate court also denied Wilson’s request for a mistake-of-fact jury instruction and excluded several of his exhibits.

Following a jury trial, Wilson was found guilty. On intermediate appeal to the district court, Wilson argued, in relevant part: (1) the magistrate court erred in denying his motion to dismiss; (2) even if the magistrate court’s interpretation of the ordinance was correct, the ordinance is void for vagueness; (3) the magistrate court violated his constitutional right to present a defense by prohibiting him from arguing the stickers are outside the purview of the ordinance because they are not advertising matter; (4) the magistrate court abused its discretion when it excluded several

of his exhibits; (5) the magistrate court erred in refusing to give his mistake of fact jury instruction; and (6) there was insufficient evidence for the jury to find him guilty because, based on his interpretation of the ordinance, the State was required to prove the stickers he posted constitute advertising matter. The district court affirmed the magistrate court's decisions. Wilson again appeals.