

## SUMMARY STATEMENT

*Hollis v. State*

Docket No. 50971

This appeal involves the denial of a motion to withdraw and a motion to continue in a post-conviction action. Hollis was represented by a conflict public defender (hereafter “conflict counsel”).

The State moved for summary disposition of Hollis’ petition. However, on the deadline to respond to the State’s motion, conflict counsel filed a motion for leave to withdraw, stating that he could “no longer ethically or effectively represent” Hollis based on the district court’s accusations that conflict counsel had lied to the court in a separate but similar post-conviction case. Conflict counsel also filed an unopposed motion for a continuance but did not otherwise file a response to the State’s motion for summary disposition.

At the hearing on the State’s motion, the district court denied conflict counsel’s motion to withdraw and motion to continue. The district court ruled that both motions were improper and that conflict counsel should have sought a substitution to address this situation. After hearing argument from both parties, the district court granted the State’s motion for summary disposition, holding, among other things, that Hollis had not supported “any of his claims with any admissible evidence, period. Zero.” The district court subsequently entered a written order denying the motion to withdraw, which identified two additional grounds for denying the motion: (1) conflict counsel’s failure to notify Hollis of the motion to withdraw pursuant to Idaho Rule of Civil Procedure 11.3(b)(1), and (2) conflict counsel’s failure to identify good cause to withdraw pursuant to Rule 11.3(b). Hollis timely appealed.

The Idaho Supreme Court vacated the district court’s judgment. First, the Court held that the district court erred when it determined that the motion to withdraw and motion to continue were improper because conflict counsel was not required to seek a substitution of counsel under Rule 11.3. Second, the Court held that the district courts’ alternative grounds for denying the motion to withdraw were arbitrary because: (1) the district court did not disclose its reasoning for ruling that conflict counsel failed to identify good cause for the withdrawal, which was not obvious from the record; and (2) the failure to provide adequate notice of the motion to withdraw did not obviate the district court’s duty to address conflict counsel’s claim that he was unable to “ethically or effectively” represent Hollis before summarily dismissing the petition for post-conviction relief. The Idaho Supreme Court vacated the district court’s judgment and remanded the matter for further proceedings. On remand, the Court ordered a new district court judge be assigned to the case.

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