

SUMMARY STATEMENT

State v. Borek

Docket No. 51548-2024

This appeal concerns whether the district court erred when it precluded the State of Idaho from presenting certain medical-related evidence at trial. Lewis Vanalen Borek was arrested and charged with driving under the influence. In advance of trial, Borek filed a motion in limine to preclude the State from introducing records the State obtained, including records from the Idaho Prescription Monitoring Program (“Idaho PMP”), the Ada County Jail, and Star Pharmacy. The records included information about prescription drug orders for mental health medications that medical providers issued to Borek as well as the dates and locations where Borek had obtained the prescriptions. Borek argued the records constituted privileged communications and were thus inadmissible under Idaho Rule of Evidence 503(b)(2), Idaho’s psychotherapist-patient privilege.

The district court granted the motion and concluded the records fell within the rule’s definition of confidential communications because they concerned Borek’s treatment for mental health conditions or were made to persons who participated in that treatment. The district court also found that Borek’s statements to arresting officers did not waive the privilege because those statements also constituted confidential communications under the rule.

The State appealed, arguing the district court erred because the scope of the privilege in Rule 503(b)(2) is limited to confidential communications among the patient, their psychotherapist, and “persons who are participating in the diagnosis or treatment under the direction of psychotherapist.” The State asserted that the Idaho PMP, the Ada County Jail, and Star Pharmacy records did not fall within the privilege. The State further argued that Borek failed to meet his burden of proving the records were privileged. Alternatively, the State argued that Borek waived the privilege.

The Idaho Supreme Court reversed the district court’s order and remanded the case for further proceedings. It held that the Idaho PMP records did not meet the requirements of the rule. On the Ada County Jail and Star Pharmacy records, the Court held that Borek failed to carry his burden of establishing that they met the requirements of that rule.

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