

## SUMMARY STATEMENT

*State v. McGarvey, Docket No. 52843*

Dillon McGarvey appealed from his judgment of conviction for felony possession of a controlled substance. McGarvey entered a guilty plea to the charge pursuant to a plea agreement under Idaho Criminal Rule 11(f). After McGarvey failed to appear for a presentence appointment, and for sentencing, he was arrested on a bench warrant. Despite his failures to appear, McGarvey sought to enforce the terms of the plea agreement, which stated that the agreement would be “null and void” for, among other things, McGarvey’s failure to appear for his presentence appointment and for sentencing. The district court declined McGarvey’s request to enforce the plea agreement. The court concluded that the “null and void” provision in the plea agreement released the State and the court from their obligations under the agreement, but that McGarvey was bound by his earlier guilty plea. The court thereafter imposed a sentence inconsistent with the agreement without affording McGarvey the opportunity to withdraw his plea. On appeal, McGarvey asserted that the district court erred by (1) construing the plea agreement to have continuing effect against him despite the “null and void” clause, and (2) failing to comply with Idaho Criminal Rule 11(f)(4), which required the court to permit withdrawal of his plea upon rejection of the agreement. The Idaho Supreme Court first held that the district court erred in construing the “null and void” clause as voidable at the election of the State. Instead, the Court explained that the more reasonable interpretation of McGarvey’s plea agreement was that on McGarvey’s breach, the agreement would be unenforceable by either party. Second, even though the agreement was unenforceable, the Court held that the district court still erred by declining to provide McGarvey the opportunity to withdraw his plea under Idaho Criminal Rule 11(f)(4). As a result, the Idaho Supreme Court vacated McGarvey’s judgement of conviction and remanded the case for further proceedings consistent with the opinion.

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