

U, TUESDAY, SEPTEMBER 19, 2017, AT 1:30 P.M.

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 44504

STATE OF IDAHO,)
)
 Plaintiff-Respondent,)
)
 v.)
)
 GUSTAVO CHAVEZ 2ND,)
)
 Defendant-Appellant.)
)

Appeal from the District Court of the Seventh Judicial District, State of Idaho, Bonneville County. Hon. Joel E. Tingey, District Judge. Hon. Stephen J. Clark and Penny Stanford, Magistrates.

Hon. Lawrence G. Wasden, Attorney General; Russell J. Spencer, Deputy Attorney General, Boise, for appellant.

Eric D. Fredericksen, State Appellate Public Defender; Jordan S. Crane, Bonneville County Public Defender, Boise, for respondent.

Gustavo Chavez 2nd was traveling home from a social gathering when his truck slid off the road and ran out of gas. Chavez claimed a friend was driving his truck. Chavez walked to a nearby house to use a phone and, while inside, the homeowner called the police because he suspected Chavez was intoxicated. Police arrived at the house and arrested Chavez for driving under the influence.

The Idaho Department of Transportation suspended Chavez's driver's license and Chavez opposed the suspension at an Administrative License Suspension hearing. Chavez's friend appeared at the hearing and testified he had been driving Chavez's truck on the night of the arrest. The hearing officer nonetheless upheld the suspension of Chavez's license.

The State charged Chavez with misdemeanor driving under the influence. At trial, Chavez attempted to call his friend to testify, but Chavez's friend was unavailable. Chavez then moved to admit into evidence the transcript from the ALS hearing, but the magistrate excluded the transcript. The magistrate also precluded Chavez from testifying that his friend was present at the ALS hearing. After a jury convicted Chavez of driving under the influence, Chavez appealed the decision to the district court. The district court ruled the magistrate erred in excluding the ALS hearing transcript and precluding evidence that Chavez's friend was present at the hearing. The district court reversed the magistrate's decisions, vacated the judgment of conviction, and remanded the case. The State appeals, arguing the district court erred in reversing the magistrate's rulings.