

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 44415

CUC PHUOC HO, )  
 )  
 Petitioner-Respondent, )  
 )  
 v. )  
 )  
 STATE OF IDAHO, )  
 )  
 Respondent-Appellant. )  
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Appeal from the District Court of the Fifth Judicial District, State of Idaho, Blaine County. Hon. Robert J. Elgee, District Judge.

Hon. Lawrence G. Wasden, Attorney General; Jessica M. Lorello, Deputy Attorney General, Boise, for appellant.

Parmenter Rivera LLP; Nathan D. Rivera, Blackfoot, for appellant.

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Cuc Phuoc Ho filed a petition for post-conviction relief, making three claims of ineffective assistance of counsel. He first claimed that counsel failed to inform him of the severe immigration consequences of pleading guilty to unlawful possession of a firearm. Second, he claimed that counsel was ineffective for advising him to plead guilty to unlawful possession of a firearm because that charge would have been dropped when his previous felony conviction was dismissed. Finally, he claims counsel was ineffective for failing to schedule a hearing on a motion to dismiss he had previously filed.

The district court granted relief by setting aside Ho's guilty plea for unlawful possession of a firearm and vacating his conviction and sentence. The State appeals from the district court's order granting Ho's petition for post-conviction relief. The State contends that the district court erred by allowing the post-conviction proceeding to go forward on an unverified petition, that the district court erred in proceeding in this post-conviction action wherein the petition combined relief claims from two separate cases, that the petition for post-conviction relief as to each conviction was untimely, and that there were evidentiary errors made by the district court.