

BOISE, MONDAY, AUGUST 17, 2020 AT 10:00 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

State of Idaho

Plaintiff-Respondent,

vs.

Brandon Lynn Winkler

Defendant-Appellant.

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Docket No. 47102

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Lynn G. Norton, District Judge.

Leroy Law Office, Boise, for Appellant.

Lawrence G. Wasden, Idaho Attorney General, Boise, for Respondent.

Brandon Winkler appeals an order entered in the Ada County district court denying his motion to dismiss a felony charge for driving under the influence of alcohol. Winkler was charged under Idaho Code section 18-8004 for driving under the influence in January 2019. Because Winkler had previously been convicted of a felony for driving under the influence in 2006, the State sought to enhance the new driving under the influence charge to a felony under Idaho Code section 18-8005(9). Winkler subsequently filed a motion to dismiss the pending felony charge on the grounds that his 2006 felony DUI had been pardoned by the Idaho Commission of Pardons and Parole, and thus, could not be used for enhancement purposes under Idaho Code section 18-8005(9). The district court denied Winkler's motion, reasoning that a pardon, though exempting an individual from punishment for a crime he has committed, does not "obliterate the criminality" of a past act. However, noting its novelty, the district court agreed to certify the issue for an interlocutory appeal and Winkler appealed.

On appeal, Winkler argues that the district court erred in denying his motion to dismiss because a pardon both exempts an individual from punishment for a crime and absolves him of any guilt for the crime. The State argues that a pardon does not absolve an individual of guilt, but merely eliminates the punishment and effects of the finding of guilt.