

BOISE, MONDAY, APRIL 3, 2023, AT 8:50 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	Docket No. 48825
Plaintiff-Respondent,)	
)	
v.)	
)	
MARK CHARLES WILSON,)	
)	
Defendant-Appellant.)	

Appeal from the District Court of the Seventh Judicial District, State of Idaho, Custer County. Joel E. Tingey, District Judge.

Eric D. Fredericksen, State Appellate Public Defender, Boise, for appellant, Mark Charles Wilson.

Raúl R. Labrador, Idaho Attorney General, Boise, for respondent, State of Idaho.

Mark Wilson was charged with unlawful possession of a firearm in violation of Idaho Code section 18-3316, with a persistent violator enhancement in violation of Idaho Code section 19-2514. A jury found Wilson guilty of unlawful possession of a firearm and that his criminal history subjected him to the persistent violator enhancement. Wilson appealed to the Idaho Court of Appeals, arguing that the State failed to present sufficient evidence that he was a convicted felon at the time he possessed a firearm. Wilson also argued that the State failed to present sufficient evidence that he had been convicted of two prior felonies, an element of the persistent violator enhancement. The Court of Appeals affirmed Wilson’s conviction and the persistent violator enhancement. Wilson petitioned the Idaho Supreme Court for review, which was granted. The Idaho Supreme Court affirmed. *State v. Wilson*, Dkt. No. 48825, 2022 WL 1482043 (Idaho May 11, 2022).

Wilson petitioned for rehearing, asserting that the appropriate “remedy for insufficiency of the evidence is acquittal i.e., a reversal of the unsupported conviction, and a remand for resentencing without the persistent violator enhancement.” The State argued in turn that the Idaho Supreme Court’s recent decision in *State v. Adkins*, __ Idaho __, 519 P.3d 1194 (2022)—decided approximately six months after the Court’s original decision in *Wilson*—forecloses Wilson’s arguments in his petition for rehearing. The Idaho Supreme Court granted Wilson’s petition and will rehear the case.