

TWIN FALLS, IDAHO, NOVEMBER 8, 2024, AT 10:00 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,)	Docket No. 50705-2023
)	
v.)	
)	
KELLY D. WEBB,)	
)	
Defendant-Appellant.)	
)	

Appeal from the District Court of the Fifth Judicial District of the State of Idaho, Blaine County. Ned C. Williamson, District Judge.

Law Office of Andrew Parnes, Ketchum, for Appellant.

Raúl R. Labrador, Idaho Attorney General, Boise, for Respondent.

Kelly D. Webb appeals from the district court’s decision denying his motion in limine requesting to present the defense of sentencing entrapment at trial. According to the Ninth Circuit Court of Appeals, sentencing entrapment is an affirmative defense that is available in some jurisdictions when a defendant, although predisposed to commit a minor or lesser offense, is entrapped in committing a greater offense subject to greater punishment. To date, Idaho has not adopted the defense.

A grand jury indicted Webb of two counts of felony trafficking in methamphetamine. The Indictment alleged that Webb twice delivered more than 28 grams of methamphetamine to a confidential informant. Under Idaho law, the trafficking of more than 28 grams of methamphetamine carries a three-year mandatory minimum sentence, while the delivery of methamphetamine of less than 28 grams does not carry a mandatory minimum sentence.

Webb pleaded not guilty and filed a motion in limine requesting to present a defense of sentencing entrapment at trial. Webb alleged that the confidential informant entrapped Webb into delivering more than 28 grams of methamphetamine, thereby subjecting Webb to a mandatory minimum sentence. The district court denied Webb’s motion.

Webb entered a conditional guilty plea reserving his right to appeal the denial of his motion in limine. On appeal, Webb asks the Idaho Supreme Court to adopt the sentencing entrapment defense.