

SUMMARY STATEMENT

Coeur D'Alene Tribe v. Denney, Docket No. 43169

This case came to the Idaho Supreme Court pursuant to a Writ of Mandamus filed by the Coeur D'Alene Tribe (Tribe) to compel the Secretary of State to certify Senate Bill 1011 (S.B. 1011) as law. S.B. 1011, if certified as law, would repeal "instant racing" in Idaho. The Supreme Court granted the Tribe's writ of mandamus, finding that the Governor did not timely return the veto and that the Secretary of State was required to certify S.B. 1011 as law pursuant to the Idaho Constitution.

The Senate and the House of Representatives passed S.B. 1011 with supermajorities and presented the bill to the Governor on March 30, 2015. Although the veto deadline was April 4, 2015, the Governor did not return S.B. 1011 with his veto message to Senate President Pro Tempore Brent Hill's office until April 6, 2015. The bill's untimely return was reflected in letters from three Senate officials that were entered into the Senate Journal that morning. Despite those letters, the Senate treated the veto as if it was valid and took a vote to override the veto. A majority, but less than two-thirds of the Senate voted to override it. Consequently, the President of the Senate declared that S.B. 1011 failed to become law. The Tribe subsequently requested the Secretary of State to certify S.B. 1011 as law on the basis that the Governor's veto was untimely and that the bill had automatically become law the moment the deadline passed. When the Secretary of State refused, the Tribe brought the instant action.

The Idaho Supreme Court held that the Senate Journal conclusively established the Governor did not return his veto within the five-day deadline under the Idaho Constitution. The Court reasoned that the Idaho Constitution clearly states that a bill that is not timely returned automatically becomes law as if the Governor had signed it and that the Secretary of State is then required to certify the bill as law. The Court then held that because the Governor did not timely return S.B. 1011, it automatically became law and the Secretary of State was required to certify it as law. Consequently, the Idaho Supreme Court issued an order compelling the Secretary of State to fulfill his non-discretionary duty to certify the bill as law. Furthermore, the Idaho Supreme Court awarded attorney fees and costs to the Coeur D'Alene Tribe, finding that the Secretary of State acted without a reasonable basis in fact or law in its defense to the writ.