

SUMMARY STATEMENT

State v. Thomas Cruz Colvin
Docket No. 44484

Thomas Cruz Colvin was issued a citation for misdemeanor domestic battery, Idaho Code § 18-918(3)(b). The State filed a motion to dismiss the misdemeanor charge, which was granted. The State subsequently filed a new complaint charging Colvin with felony domestic battery, I.C. § 18-918(2)(a), alleging he inflicted traumatic injury upon the victim. Colvin moved to dismiss the felony charge, asserting it was barred by I.C. § 19-3506, which states: “An order for the dismissal of the action, as provided in this chapter, is a bar to any other prosecution for the same offense, if it is a misdemeanor; but it is not a bar if the offense is a felony.”

In applying the statute, the first issue is whether the misdemeanor domestic battery charge is for the “same offense” as the subsequent felony domestic battery charge. Applying either test proposed by the parties leads to the conclusion that the charges are for the same offense. The second issue, then, is whether “it” as mentioned in the clause “if it is a misdemeanor” in I.C. § 19-3506, references the dismissed charge or the newly filed charge. This Court reads the application of I.C. § 19-3506 to be dependent on the classification of the newly filed charge as opposed to the original dismissed charge. Therefore, pursuant to the rule the newly filed charge is barred if the newly filed charge is a misdemeanor. Applying this rule to the facts of the case, the subsequent felony domestic battery charge against Colvin is not barred by I.C. § 19-3506 and the district court did not err in denying his motion to dismiss.