

SUMMARY STATEMENT

Jeremy Ray Wheeler v. State, Docket No. 44797

In an appeal from the district court in Bannock County, the Supreme Court vacated the district court's order granting the State's motion for summary dismissal of Wheeler's petition for post-conviction relief and remanded for further proceedings.

On June 26, 2014, Wheeler was arrested and charged with possession of methamphetamine in violation of Idaho Code section 37-2732(c)(1). Following the denial of his motion to suppress, Wheeler pled guilty to the charge and was sentenced to serve seven years, with three years fixed, with the district court retaining jurisdiction for one year. On August 13, 2015, the district court relinquished jurisdiction at Wheeler's request.

Wheeler's trial counsel filed a notice of appeal on September 14, 2015, which purported to challenge both the denial of Wheeler's motion to suppress and his sentence. The appeal was not timely as to the motion to suppress.

On February 2, 2016, Wheeler filed a *pro se* petition for post-conviction relief alleging ineffective assistance of trial counsel for failing to timely appeal from the denial of his motion to suppress. The district court granted the State's motion for summary dismissal, finding that Wheeler's claim that trial counsel had failed to timely appeal from the denial of the motion to suppress was groundless.

On appeal, the State conceded that the basis for the district court's dismissal was erroneous, but contended that Wheeler had not preserved his right to appeal from the denial of his motion to suppress.

The Supreme Court found that there was a genuine issue of material fact as to whether Wheeler had preserved his right to appeal the issue. The Supreme Court noted that Wheeler had completed a written guilty plea advisory in which he indicated that his plea of guilty was conditioned upon his right to appeal that decision. The Supreme Court also considered the statements made at the time of Wheeler's plea of guilty and found that those statements indicated that Wheeler did not wish to "immediately" appeal from the denial of the motion to suppress, but did not affirmatively establish a complete waiver of the right to appeal that decision.