

SUMMARY STATEMENT

Savage v. State, Docket No. 46266

This appeal arises out of a criminal defense attorney's alleged failure to adequately advise his client about the client's constitutional rights against self-incrimination during a related civil deposition. Savage was convicted of first-degree arson and misdemeanor stalking. He filed a petition for post-conviction relief claiming that his trial counsel failed to adequately advise him about his rights under the Fifth Amendment of the U.S. Constitution and Article I Section 13 of the Idaho Constitution during a deposition in the civil case initiated by the alleged victims of the arson. The district court granted the State's motion for summary dismissal of the post-conviction petition. Savage then filed a pro se motion for relief from judgment under Idaho Rule of Civil Procedure 60(b) which was not considered. Savage timely appealed from the district court's grant of summary dismissal and its order refusing to consider his Rule 60(b) motion. The Supreme Court reversed and remanded because the State conceded that Savage alleged facts establishing a prima facie case of deficient performance. It declined to analyze in the first instance whether Savage failed to raise a genuine issue of material fact regarding resulting prejudice.