

**BOISE, THURSDAY, SEPTEMBER 10, 2009, AT 9:00 A.M.**

**IN THE COURT OF APPEALS OF THE STATE OF IDAHO**

**IN THE MATTER OF THE DRIVER'S  
LICENSE SUSPENSION OF  
GARY ALAN FEASEL.**

|                                      |   |                         |
|--------------------------------------|---|-------------------------|
| _____                                | ) |                         |
| <b>GARY ALAN FEASEL,</b>             | ) | <b>Docket No. 35720</b> |
|                                      | ) |                         |
| <b>Petitioner-Respondent,</b>        | ) |                         |
|                                      | ) |                         |
| <b>v.</b>                            | ) |                         |
|                                      | ) |                         |
| <b>STATE OF IDAHO, DEPARTMENT OF</b> | ) |                         |
| <b>TRANSPORTATION,</b>               | ) |                         |
|                                      | ) |                         |
| <b>Respondent-Appellant.</b>         | ) |                         |
| _____                                | ) |                         |

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. D. Duff McKee, District Judge.

Michael J. Kane, Boise, for appellant.

Robert A. Wallace, Boise, for respondent.

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Gary Alan Feasel was arrested for driving under the influence after he rear-ended a vehicle at the intersection of Broadway and Front Street in Boise, Idaho. An officer at the scene submitted an affidavit indicating that Feasel admitted to having taken multiple medications at some point prior to the accident, he had slurred speech, appeared sleepy, and exhibited an impaired memory. After Feasel failed several field sobriety tests, he submitted to a breath alcohol test which showed no trace of alcohol, and a urine test which detected the presence of fluoxetine (Prozac). Feasel was notified by the Idaho Transportation Department (ITD) of an administrative license suspension (ALS) and timely requested an administrative hearing where he challenged the suspension of his driver's license. The hearing officer upheld the suspension on the basis of the urine test results, the failure of the field sobriety tests, and the officer's observations at the scene of the accident. Feasel filed a timely petition for judicial review. The district court reversed the order of ITD's suspension of Feasel's driver's license and ordered that the action be dismissed. ITD appeals to this Court seeking reversal of the district court's decision.

**BOISE, THURSDAY, SEPTEMBER 10, 2009, AT 10:30 AM**

**IN THE COURT OF APPEALS OF THE STATE OF IDAHO**

**Docket No. 35540**

**STATE OF IDAHO,** )  
 )  
 **Plaintiff-Respondent,** )  
 )  
 **v.** )  
 )  
 **TIM CARL MANTZ,** )  
 )  
 **Defendant-Appellant.** )  
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Appeal from the District Court of the Second Judicial District, State of Idaho, Latah County. Hon. John R. Stegner, District Judge.

Whitney & Whitney, LLP, Moscow, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Rebekah A. Cudé, Deputy Attorney General, Boise, for respondent.

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Tim Carl Mantz appeals from the judgment of conviction entered upon the jury verdict finding him guilty of aggravated assault. Mantz contends that his right to confrontation under both the United States and Idaho Constitutions was violated when the district court admitted preliminary hearing testimony of an unavailable witness.