

**BOISE, THURSDAY, AUGUST 27, 2009, AT 9:00 AM**

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

**Docket No. 35282**

**VINCENT BENJAMIN VIDEGAIN,** )  
 )  
 **Petitioner-Appellant,** )  
 )  
 **v.** )  
 )  
 **STATE OF IDAHO,** )  
 )  
 **Respondent.** )  
 \_\_\_\_\_ )

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Timothy Hansen, District Judge.

Nevin, Benjamin, McKay & Bartlett, LLP, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

Vincent Benjamin Videgain and a co-defendant attempted to rob a taxi driver at gunpoint. Three shots were fired at the taxi as the driver sped away, causing it to crash. Videgain and his co-defendant each accused the other of attempting the robbery and firing the shots. Following a jury trial, Videgain was found guilty of attempted robbery with an enhancement for use of a firearm during the commission of a crime and aggravated assault. The district court sentenced Videgain to a unified term of twenty-five years, with a minimum period of confinement of ten years, for attempted robbery and a concurrent five-year determinate term for aggravated assault. Videgain filed a motion for a new trial based on a conversation that his trial counsel overheard wherein counsel for Videgain's co-defendant made statements that may have implicated the co-defendant as the shooter. Videgain's counsel did not call the co-defendant's counsel as a witness at the hearing on the motion for a new trial. The district court denied the motion for lack of admissible evidence that any exculpatory statements had been made.

Videgain filed an application for post-conviction relief alleging nineteen claims of ineffective assistance of trial counsel, two claims of ineffective assistance of appellate counsel, and one claim of cruel and unusual punishment. The state moved for summary dismissal arguing that Videgain failed to state any claim upon which relief could be granted or upon which any genuine issue of material fact existed, provided insufficient evidentiary support for his claims, and raised issues which could have been raised on direct appeal. Videgain withdrew two claims of ineffective assistance of trial counsel and his claim of cruel and unusual punishment. A

hearing was held on the state's motion, and the district court summarily dismissed all but six of the claims. After an evidentiary hearing, the district court dismissed the remaining claims contained in Videgain's application for post-conviction relief. Videgain appeals.

**BOISE, THURSDAY, AUGUST 27, 2009, AT 10:30 A.M.**

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

**Docket No. 35414**

**IDAHO STATE TAX COMMISSION ,** )  
 )  
 **Plaintiff-Respondent,** )  
 )  
 **v.** )  
 )  
 **SPENCER WILLIAM and NANI JOY** )  
 **CHILD BEUS, husband and wife,** )  
 )  
 **Defendants-Appellants,** )  
 )  
 **and** )  
 )  
 **THE ORDER OF TRANQUILITY,** )  
 )  
 **Defendant.** )  
 )  
 \_\_\_\_\_ )

Appeal from the District Court of the Third Judicial District, State of Idaho, Owyhee County. Hon. Gregory M. Culet, District Judge.

Spencer William Beus and Nani Joy Child Beus, Grandview, pro se appellants.

Hon. Lawrence G. Wasden, Attorney General; Erick M. Shaner, Deputy Attorney General, Boise, for respondent.

After the Idaho State Tax Commission sent notice of deficiency to Spencer and Nani Beus concerning the Beuses' liability for income taxes due for the 1998 tax year, the Beuses conveyed their real property, located in Owyhee County, to an entity or organization called Tthe Order of Tranquility. The Idaho State Tax Commission then filed suit to set aside the conveyance under the Idaho Fraudulent Conveyances Act. The district court granted a judgment by default to the Idaho State Tax Commission. The Beuses appeal from an order denying their motion to set aside the default judgment. They argue that the district court did not have jurisdiction to enter the judgment against them.

**BOISE, THURSDAY, AUGUST 27, 2009, AT 1:30 P.M.**

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

**Docket No. 35461**

**WILLIAM ELLIS,** )  
 )  
 **Petitioner-Appellant,** )  
 )  
 **v.** )  
 )  
 **STATE OF IDAHO,** )  
 )  
 **Respondent.** )  
 \_\_\_\_\_ )

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Twin Falls County. Hon. Randy J. Stoker, District Judge.

Molly J. Huskey, State Appellate Public Defender, Boise, for appellant.

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

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Pursuant to a plea agreement, William Ellis entered a guilty plea to one count of lewd conduct with a minor under the age of sixteen in exchange for the state's dismissal of a second count of lewd conduct and an agreement not to file any other charges against Ellis for the known abuse of other victims. Ellis agreed to obtain a psychosexual evaluation prior to sentencing and the state's sentencing recommendation remained open until after the evaluation was complete. After reviewing the presentence investigation report and the psychosexual evaluation, the district court sentenced Ellis to a term of fifteen years determinate; after which Ellis filed a petition for post-conviction relief alleging claims of ineffective assistance of counsel and claims of due process violations. The state moved for summary dismissal of all claims, and the district court filed a notice of intent to dismiss based on the state's reasons. Although Ellis filed supplemental briefing, the district court granted the state's motion for summary dismissal and this appeal followed. Of the claims raised in Ellis' petition, he challenges only the summary dismissal of his claim that counsel was ineffective by failing to adequately advise him of his constitutional rights relating to the psychosexual evaluation.