

BOISE, FRIDAY, NOVEMBER 13, 2009, AT 9:00 A.M.

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 35557

STATE OF IDAHO,)
)
 Plaintiff-Respondent,)
)
 v.)
)
 REBECCA R. ALLEN,)
)
 Defendant-Appellant.)
 _____)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Thomas F. Neville, District Judge.

Molly J. Huskey, State Appellate Public Defender; Eric D. Fredericksen, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Daniel W. Bower, Deputy Attorney General, Boise, for respondent.

Rebecca R. Allen entered Moneytree, a business offering check-cashing services and presented the manager a \$4,900 check, without indorsement, made out to her. The manager determined the check was fraudulent and alerted the police.

When contacted by the police, Allen admitted that she had received the check after responding to an e-mail and becoming involved in a “Nigerian check scam” and that she suspected the check was fraudulent. Allen also admitted that she had gone to Moneytree to cash the check and signed a statement admitting the same.

Allen was arrested and charged with felony forgery, Idaho Code § 18-3601. The case proceeded to trial where a jury found her guilty as charged. Allen now appeals, raising the issue of whether sufficient evidence was presented to establish that she passed or attempted to pass a fraudulent document.

BOISE, FRIDAY, NOVEMBER 13, 2009, AT 10:30 AM

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 35862

MICHAEL A. ANTONICCHIO, an)
individual,)
)
Plaintiff-Appellant,)
)
v.)
)
KOOTENAI COUNTY, an Idaho municipal)
corporation; KOOTENAI COUNTY)
SHERIFF'S DEPARTMENT, an Idaho)
governmental entity; and DEPUTY)
STINEBAUGH, an employee or agent of)
Kootenai County,)
)
Defendants-Respondents.)
)
_____)

Appeal from the District Court of the First Judicial District, State of Idaho, Kootenai County. Hon. Charles W. Hosack, District Judge.

Palmer George, PLLC, Coeur d'Alene, for appellant.

Paine Hamblen LLP, Coeur d'Alene, for respondents.

Michael A. Antonicchio appeals from the district court's dismissal of his complaint for failure to file a written undertaking as required by Idaho Code § 6-610. Antonicchio argues that dismissal is not required and that he should have been allowed to cure his failure to file the written undertaking.

BOISE, FRIDAY, NOVEMBER 13, 2009, AT 1:30 P.M.

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 35705

STATE OF IDAHO,)
)
 Plaintiff-Appellant,)
)
 v.)
)
 JIM HOWARD, III,)
)
 Defendant-Respondent.)
)
 _____)

Appeal from the District Court of the First Judicial District, State of Idaho, Kootenai County. Hon. John T. Mitchell, District Judge.

Hon. Lawrence G. Wasden, Attorney General; Jessica M. Lorello, Deputy Attorney General, Boise, for appellant.

Molly J. Huskey, State Appellate Public Defender; Sarah E. Tompkins, Deputy Appellate Public Defender, Boise, for respondent.

Howard was charged with driving under the influence. The charge was elevated from a misdemeanor to a felony based upon the state's allegation that Howard had twice previously been convicted of DUI within the preceding fifteen years. In a bifurcated trial, the jury found Howard guilty of the new DUI offense, and the question whether Howard had been twice previously convicted of DUI was tried to the judge. The prosecution submitted documentation of a prior conviction from California, but the district court excluded this evidence on the ground that the document was not authenticated as required by an Idaho statute and a federal statute. The district court consequently found that the state did not meet its burden to prove two prior DUI convictions. Therefore, Howard was found guilty of only a misdemeanor DUI, not a felony. The state appeals, contending that neither the Idaho statute nor the federal statute was applicable in Howard's trial. Howard contends that the state's appeal is moot because, even if the state is correct, constitutional prohibitions against double jeopardy bar the state from retrying him on the felony charge.