

**BOISE, TUESDAY, NOVEMBER 17, 2009, AT 9:00 A.M.**

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

**Docket No. 34908**

**STATE OF IDAHO,** )  
 )  
 **Plaintiff-Respondent,** )  
 )  
 **v.** )  
 )  
 **THOMAS JASON REUSSER,** )  
 )  
 **Defendant-Appellant.** )  
 \_\_\_\_\_ )

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Darla S. Williamson, District Judge.

Molly J. Huskey, State Appellate Public Defender; Elizabeth A. Allred, Deputy Appellate Public Defender, Boise, for appellant.

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

Police responding to a hit-and-run accident involving private property spotted Reusser driving his damaged vehicle near the scene. The officers effectuated a stop of Reusser's vehicle and detected a strong odor of alcohol. Reusser also had impaired memory, slurred speech and glassy, bloodshot eyes. Reusser was belligerent and uncooperative with police instructions and refused evidentiary testing. A search of Reusser's vehicle revealed a small baggie of marijuana. Reusser was charged with felony driving under the influence (DUI) enhanced due to another felony DUI conviction within the previous fifteen years, misdemeanor possession of marijuana, and misdemeanor resisting and obstructing officers.

At trial, the state dismissed the charge of possession of marijuana and proceeded on the other two charges. A jury found Reusser guilty of DUI and acquitted him of misdemeanor resisting and obstructing officers. The trial proceeded to a second phase to determine the existence of Reusser's prior felony DUI conviction. During that proceeding, the state moved to amend the information as it pertained to Reusser's prior conviction. The information provided that Reusser had previously been convicted of a violation of I.C. § 18-8004, when he was actually found guilty of a violation of I.C. § 18-8006. The district court allowed the amendment, and the jury found that Reusser had a prior felony conviction of I.C. § 18-8006 within the past fifteen years. The district court sentenced Reusser to a unified term of eight years, with a minimum period of confinement of two years, and retained jurisdiction.

At the conclusion of Reusser's retained jurisdiction, the district court held a review hearing. At the hearing, the district court observed that Reusser had done well during the period of retained jurisdiction, but nonetheless relinquished jurisdiction and ordered Reusser's sentence into execution. Reusser appeals.

**BOISE, TUESDAY, NOVEMBER 17, 2009, AT 10:30 A.M.**

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

**Docket No. 35281**

**STATE OF IDAHO,** )  
 )  
 **Plaintiff-Respondent,** )  
 )  
 **v.** )  
 )  
 **FARON RAYMOND HAWKINS,** )  
 )  
 **Defendant-Appellant.** )  
 \_\_\_\_\_ )

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Michael R. McLaughlin, District Judge.

Nevin, Benjamin, McKay & Bartlett; Dennis A. Benjamin, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

On December 16, 2005, Hawkins robbed a Key Bank in Boise by presenting a note that demanded \$15,000 and threatened to shoot people. On June 6, 2006, Hawkins robbed a Washington Mutual Bank in Boise in the same manner as the previous robbery.

A grand jury indicted Hawkins on two counts of robbery. Hawkins moved to proceed *pro se*, and the district court granted his request for self-representation but also appointed a public defender as stand-by counsel. On January 7, 2008, trial commenced and Hawkins testified on his own behalf. He admitted to the bank robberies, but claimed that they were done under duress. Hawkins stated that the people who forced him to commit the robberies did so by making threats to him, his wife, and his children. Ultimately, the jury found Hawkins guilty of the robberies. Hawkins filed a motion to dismiss on grounds of mental incapacity claiming that the state's evidence showed that he was delusional. The district court denied the motion to dismiss but, taking into account Hawkins's claim of mental incapacity, ordered a psychological evaluation for purposes of sentencing. Hawkins appeals from his judgment of conviction and sentence raising the issue of whether the district court erred in failing to *sua sponte* order a psychiatric evaluation and conduct a hearing to determine his competence to stand trial.