

BOISE, THURSDAY, NOVEMBER 19, 2009, AT 9:00 A.M.

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 35436

STATE OF IDAHO,)
)
 Plaintiff-Respondent,)
)
 v.)
)
 SCOTT ERICKSON,)
)
 Defendant-Appellant.)
 _____)

Appeal from the District Court of the Sixth Judicial District, State of Idaho, Bear Lake County. Hon. David C. Nye, District Judge.

Molly J. Huskey, State Appellate Public Defender; Heather M. Carlson, Deputy Appellate Public Defender, Boise, for appellant.

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

A jury convicted Scott L. Erickson of two counts of sexual abuse of a child in May of 2008. Erickson appeals the judgment of conviction and the denial of his motion for a mistrial. On appeal he asserts the State engaged in multiple instances of prosecutorial misconduct. He also argues the district court erred in ruling that the State did not use its peremptory challenges to purposefully exclude men from the jury and by admitting improper character evidence. Additionally, he contends the State violated his right against self-incrimination when it elicited testimony that he refused to speak to police regarding the investigation. Erickson asserts these errors individually and cumulatively deprived him of his right to a fair trial.

BOISE, THURSDAY, NOVEMBER 19, 2009, AT 10:30 A.M.

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 35568

JOSEPH CRAIG NEWMAN,)
)
 Petitioner-Appellant,)
)
 v.)
)
 STATE OF IDAHO,)
)
 Respondent.)
)
 _____)

Appeal from the District Court of the Sixth Judicial District, State of Idaho, Bannock County. Hon. Ronald E. Bush, 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.

Joseph Craig Newman was charged with felony injury to a child and being a persistent violator. At the completion of trial, a jury found him guilty of injury to a child, and Newman admitted that he was subject to the persistent violator enhancement. Newman filed an application for post-conviction relief seeking a vacation of his judgment of conviction and a new trial. Newman's application alleged numerous claims, including ineffective assistance of counsel. The district court denied Newman's request for appointed counsel and summarily dismissed his application. Newman appealed, and this Court remanded Newman's case to the district court to allow Newman the assistance of counsel, and to supplement his application with additional facts, if such existed.

Upon remand, the district court allowed Newman to amend his application. After reviewing the amended application, the district court summarily dismissed most of Newman's claims and held an evidentiary hearing for the three remaining ineffective assistance of counsel claims. At the evidentiary hearing, Newman requested that the district court take judicial notice of a number of documents, including documents relating to an Idaho State Bar professional misconduct proceeding involving Newman's trial counsel. The district court granted Newman's request in part and took judicial notice of Newman's original and amended applications for post-conviction relief; the instant post-conviction relief file; and orders, transcripts, and other documents from Newman's underlying criminal file. However, the district court declined to take judicial notice of the documents relating to the Idaho State Bar misconduct

proceedings. At the conclusion of the evidentiary hearing, the district court dismissed Newman's ineffective assistance of counsel claims. Newman appeals.

BOISE, THURSDAY, NOVEMBER 19, 2009, AT 1:30 P.M.

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 35772

STATE OF IDAHO,)
)
 Plaintiff-Respondent,)
)
 v.)
)
 TWO JINN INC.,)
)
 Real Party in Interest-Appellant,)
)
 and)
)
 LARRY GRANT DANA, JR.,)
)
 Defendant.)
 _____)

Appeal from the District Court of the Third Judicial District, State of Idaho, Payette County. Hon. Stephen W. Drescher, District Judge.

Susan M. Campbell, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Mary K. Magnelli, Deputy Attorney General, Boise, for respondent.

In December 2007, Two Jinn, Inc. d/b/a Aladdin Bail Bonds/Anytime Bail Bonds (Two Jinn) posted a \$5,000 bond for Larry G. Dana, who had been charged with failure to register as a sex offender in violation of Idaho Code § 18-8309. When Dana failed to appear at his January 23, 2008, pretrial hearing date, the court issued a notice of forfeiture of the bond and a bench warrant, but stayed execution of the warrant until the jury trial was scheduled to commence on February 12, 2008. A notice of the forfeiture, including an indication that the bench warrant had been stayed, was mailed to Two Jinn.

When Dana again failed to appear on February 12, the court ordered the issuance of an active bench warrant and set bond at \$50,000.

On July 21, 2008, 180 days after the notice of forfeiture was issued, Two Jinn filed a motion to set aside forfeiture and exonerate bond on the basis that the court's stay of the bench warrant, in contravention of I.C. § 19-2927, had impeded its apprehension of Dana. The district court denied the motion. Two Jinn now appeals.