BOISE, MONDAY, DECEMBER 1, 2008 AT 8:50 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

RONALD CECIL and DARCY CECIL, husband and wife,	)	
Plaintiffs-Respondents,	)	
v.	)	**Docket No. 34412**
MICHAEL GAGNEBIN and TANA GAGNEBIN, husband and wife,	)	
Defendants-Appellants.	)	

Appeal from the District Court of the Fourth Judicial District of the State of Idaho, Ada County. Hon. Ronald J. Wilper, District Judge.

Sallaz & Gatewood, Chtd., Boise, for appellant.

Perkins Coie, LLP, Boise, for respondent.

This appeal is the result of a property line dispute between owners of adjoining residential properties located in Boise. Defendants-Appellants Michael and Tana Gagnebin had a survey conducted in October 2005. The survey revealed a chain-link fence separating a portion of the properties was not located on the boundary line, but was actually located between 3 feet and eighteen inches on the Gagnebins' property.

In April 2006, the Gagnebins began construction of a privacy fence located on the survey line. Plaintiffs-Respondents Ronald and Darcy Cecil commenced an action to quiet title on the property lying between the chain-link fence and the survey line. In summary judgment the district court ruled that chain-link fence constituted a boundary by agreement. The district court entered a Second Amended Judgment establishing the new boundary between the properties following the trajectory of the historic fence line, until reaching the edge Gagnebins' driveway, then following edge of the Gagnebins' driveway until reaching the Cecils' driveway to the sidewalk in front of the properties.

The Gagnebins appeal from the Second Amended Judgment arguing the district court erred in declaring a boundary by agreement from the end of the chain-link fence to driveway edge in the absence of either an expressed or implied agreement required to create a boundary by agreement.

In addition, the Gagnebins ask this Court to reverse the district court's award of attorney fees. The Cecils argue the Gagnebins' appeal of the award of attorney fees below is untimely and therefore waived as an issue on appeal. Finally, the Cecils ask for an award of attorney fees on appeal.

BOISE, MONDAY, DECEMBER 1, 2008 AT 10:00 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

JOE C. WATERMAN,	)	
	)	
Plaintiff-Appellant,	)	
	)	**Docket No. 33883**
v.	)	
	)	
NATIONWIDE MUTUAL INSURANCE COMPANY and ALLIED INSURANCE COMPANY,	)	
	)	
Defendants-Respondents.	)	

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

Kirkendall Law Office and Law Offices of Peter Desler, PC, Boise, for appellant.

Moffatt, Thomas, Barrett, Rock & Fields, Chartered, Boise, for respondent.

Joe Waterman (Appellant) brought an action against his former employer, Nationwide Mutual Insurance Company and Allied Insurance Company (collectively Respondent). Appellant raised several causes of action, but the case only proceeded on his claim that Respondent violated the Age Discrimination in Employment Act of 1967 (ADEA). Respondent moved for a directed verdict at several stages of the trial and the district court took the motion under advisement. After the jury returned a verdict for Appellant and awarded $700,000.00 in damages, the district court dismissed the jury. The court then granted Respondent's motion for a directed verdict, thereby vacating the jury verdict. The court entered judgment in favor of Respondent, finding Appellant failed to prove three out of four elements of his ADEA claim. Appellant brings this appeal requesting this Court to reverse the district court's directed verdict ruling and to reinstate the jury verdict in his favor.

BOISE, MONDAY, DECEMBER 1, 2008 AT 11:10 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	
	)	
Plaintiff-Respondent,	)	
	)	
v.	)	**Docket No. 35368**
	)	
MYRON DALE LOOMIS, JR.,	)	
	)	
Defendant-Appellant.	)	
	)	

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

Hallin Law, PLLC, McCall, for appellant.

Hon. Lawrence G. Wasden, Idaho Attorney General, Boise, for respondent.

Dale Loomis was charged with aggravated assault for discharging a firearm in the direction of his brother-in-law, Darrel Kelley. The magistrate dismissed the complaint after the preliminary hearing because the State had not proved that Loomis's actions were not justifiable self-defense. The State appealed to the district court, which remanded the case and ordered the magistrate to decide whether or not the State had met its burden of probable cause on each of the material elements of aggravated assault. Loomis appealed to the Court of Appeals, which reversed the district court and held that a magistrate's dismissal of a criminal complaint at the preliminary hearing stage is not appealable when the State may simply refile the complaint before another judge. The State filed a petition for review, which this Court granted.

On review, the State argues that, under the circumstances of this case, this Court should relax the rule disallowing appeals from dismissals at the preliminary hearing stage, and determine whether or not the State must prove the inapplicability of self-defense in order to show probable cause of aggravated assault.