

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 45947

STATE OF IDAHO,)
)
 Petitioner-Appellant,)
)
 v.)
)
 ROBBY L. WASHINGTON,)
)
 Defendant-Respondent.)
)

Appeal from the District Court of the Third Judicial District, State of Idaho, Canyon County. Hon. Bradly S. Ford, District Judge.

Eric D. Fredericksen, State Appellate Public Defender; Brian R. Dickson, Deputy Appellate Public Defender, Boise, for appellant.

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

Robby L. Washington’s ex-girlfriend called the police department to report that Washington was involved in drug activity. Officers located Washington, stopped his vehicle, and after a drug dog alerted on the vehicle, the officers searched the vehicle. In the vehicle, they found a cooler and a briefcase. The officers found marijuana and paraphernalia inside the cooler and methamphetamine and paraphernalia inside the briefcase.

Washington was charged with possession of methamphetamine, marijuana, and drug paraphernalia. The district court dismissed the marijuana charge as a result of a discovery violation committed by the State. At trial, Washington called his ex-girlfriend as a witness. She testified her friend left the cooler in Washington’s vehicle. The next day, the ex-girlfriend looked in the cooler, saw the drugs and paraphernalia inside the cooler, and left the cooler inside the vehicle. Later that day, the ex-girlfriend got mad at Washington and called the police to report Washington. The jury convicted Washington of possession of methamphetamine and drug paraphernalia.

After trial at a hearing on Washington’s motion for new trial, the ex-girlfriend testified that she opened the cooler and saw its contents, but also placed a methamphetamine pipe and a black Ziploc bag inside, items which her friend had asked her to throw away. The district court held the ex-girlfriend’s testimony was newly discovered evidence and ordered a new trial.

The State appeals to this Court, arguing that the district court abused its discretion by deciding Washington’s motion for new trial under the incorrect standard for newly discovered evidence and, alternatively, even if the district court used the correct standard, a new trial is not

justified. Washington argues the district court used the correct standard, and even if it did not, the error was harmless because a new trial would still be justified.