

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 35781

STATE OF IDAHO,	)	2009 Unpublished Opinion No. 682
	)	
<b>Plaintiff-Respondent,</b>	)	<b>Filed: November 18, 2009</b>
	)	
v.	)	<b>Stephen W. Kenyon, Clerk</b>
	)	
<b>FRANK REGINALD WALL,</b>	)	<b>THIS IS AN UNPUBLISHED</b>
	)	<b>OPINION AND SHALL NOT</b>
<b>Defendant-Appellant.</b>	)	<b>BE CITED AS AUTHORITY</b>
	)	

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

Decision of the district court, on intermediate appeal from the magistrate division, affirming judgment of conviction for operating a dog kennel without a license, affirmed.

Frank Reginald Wall, Athol, pro se appellant.

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

GUTIERREZ, Judge

Frank Reginald Wall appeals from the district court’s intermediate appellate decision affirming the judgment entered upon his misdemeanor conviction for operating a dog kennel without a license.

**I.  
BACKGROUND**

Wall operated a dog kennel. Wall was notified that the dogs were making excessive, loud noises and he was given thirty days to comply with the ordinance and cure the violation. However, Wall did not cure the violation and his kennel license was revoked. After the license was revoked, Wall continued to maintain the kennel and was charged with operating a kennel without a license, a misdemeanor, pursuant to Kootenai County Ordinance 5-1A-1(A)1. The magistrate found Wall guilty as charged and entered a judgment of conviction. Wall timely

appealed, and the district court affirmed the conviction. Wall now appeals the district court's decision to affirm the conviction.

## II.

### STANDARD OF REVIEW

When the district court has rendered a decision on an appeal from the magistrate division, this Court reviews the district court decision directly. *Carter v. Zollinger*, 146 Idaho 842, 844, 203 P.3d 1241, 1243 (2009); *Losser v. Bradstreet*, 145 Idaho 670, 672, 183 P.3d 758, 760 (2008). This Court conducts free review of the legal issues analyzed by the district court acting in its appellate capacity. *Carter*, 146 Idaho at 844, 203 P.3d at 1243. Over questions of law we exercise free review. *Nelson v. Nelson*, 144 Idaho 710, 713, 170 P.3d 375, 378 (2007); *Toms v. Davies*, 128 Idaho 303, 305, 912 P.2d 671, 673 (Ct. App. 1995).

## III.

### DISCUSSION

Wall appears to be asking this Court to grant him injunctive and monetary relief from the judgment entered upon his conviction for operating a dog kennel without a license. Wall's brief is replete with arguments about how his neighbors conspired against him in order to get his kennel license revoked, how he was entrapped, and how the county commissioners, sheriffs, prosecutors, and magistrate did not conduct their offices prudently. In his reply brief, Wall contends:

Their progressive, malicious acts destroyed Wall's business and endangered Wall, his property and service dogs in training. . . .

. . . .

Wall seeks comprehensive, investigative relief and remedy under state and federal laws, regulations and procedural mandates--the precise relief sought of this Court to *censure* the local authorities and to investigate as to why this was not addressed years ago. Wall seeks remuneration as the Court deems proper and appropriate.

We agree with the district court when it noted:

I've really tried my best to find what the issues are that I could rule on if I had sufficient argument. Entrapment, that was never raised before the Magistrate. You mentioned that today in your oral argument. I didn't see it mentioned in your brief, but it wasn't raised before the Magistrate. A lack of Miranda rights isn't pertinent to this issue. A lot of complaints about how the county deputies, commissioners, prosecutors handled things. This is not -- this isn't a civil case. If you want to file a tort claim, you can, but I can't deal with 99 percent of what you've alleged here.

This isn't a civil case. This appeal can't be turned into a tort claim. You can file a tort claim if you want, but that's a separate proceeding.

Wall claims injury as a result of his neighbors conspiring against him and as a result of county official misconduct. As the district court stated in the passage above, this is not a civil case, and these claims charging wrongdoings by a host of individuals and seeking injunctive and monetary relief are not appropriate for a criminal appeal. *See State v. Hargis*, 126 Idaho 727, 732 n.4, 889 P.2d 1117, 1122 n.4 (Ct. App. 1995) (stating that a request for injunctive relief was not proper because this was a criminal case, not a civil action for injunctive relief). We also agree with the district court that Wall's claim of entrapment was not preserved for appeal. Generally, issues not raised below may not be considered for the first time on appeal. *State v. Fodge*, 121 Idaho 192, 195, 824 P.2d 123, 126 (1992); *Small v. State*, 132 Idaho 327, 331, 971 P.2d 1151, 1155 (Ct. App. 1998).

Wall also asserts that his kennels are grandfathered into the original ordinance. However, this claim is not supported by any legal authority or argument. It is well established that an appellate court will not consider a claim of error that is not supported by both argument and citation to authority. *State v. Grazian*, 144 Idaho 510, 518, 164 P.3d 790, 798 (2007); *State v. Zichko*, 129 Idaho 259, 263, 923 P.2d 966, 970 (1996) (stating when issues on appeal are not supported by propositions of law, authority, or argument, they will not be considered). A party waives an issue cited on appeal if either authority or argument is lacking, not just if both are lacking. *Zichko*, 129 Idaho at 263, 923 P.2d at 970. Because Wall has offered no argument or authority in conjunction with this claim, we will not consider it. Likewise, we do not consider any purported claim Wall presents for attorney fees.

#### **IV.**

#### **CONCLUSION**

For the stated reasons, the district court's intermediate appellate decision affirming the judgment entered upon Wall's misdemeanor conviction for operating a dog kennel without a license is affirmed.

Judge GRATTON and Judge MELANSON **CONCUR.**