July 21, 2004

FOR IMMEDIATE RELEASE

THIS IS NOT AN OFFICIAL STATEMENT OF THE COURT, BUT IS INTENDED SOLELY FOR THE CONVENIENCE OF THE PRESS.

IN THE SUPREME COURT OF THE STATE OF IDAHO

2004 Opinion No. 91

STATE OF IDAHO,	)	
	)	
Plaintiff-Respondent,	)	
	)	
v.	)	**Docket No. 30084**
	)	
RICHARD W. HOYLE,	)	
	)	
Defendant-Appellant.	)	

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

The judgment of the district court is affirmed.

Andrew Parnes, Ketchum, and Peterson Law Office, Boise, for appellant. Andrew Parnes argued for Appellant.

Hon. Lawrence G. Wadsen, Idaho Attorney General, Boise, for respondent. Kenneth Jorgensen argued for Respondent.

In 1997, Hoyle, the Appellant, was charged with eight felonies, including racketeering, a white-collar crime based on dishonest behavior, in connection with his insurance agency. After a jury trial, Hoyle was acquitted of all charges except seven alleged dishonest acts giving rise to a racketeering charge because the jury could not agree on whether Hoyle was innocent or guilty. The district court declared a mistrial as to the charge the jury could not agree upon so that Hoyle could be retried in front of another jury. Hoyle asked the district court to acquit him of the racketeering charge. The district court determined the jury had not rendered a verdict on the racketeering charge or the acts giving rise to the charge, and denied Hoyle's request for acquittal and granted the state's request for a new trial.

Prior to a new trial, the state informed the district court that it would not retry Hoyle for racketeering; rather, the state would charge and try Hoyle for the independent acts giving rise to the original racketeering charge. The district court dismissed the original case where Hoyle was charged with racketeering and Hoyle appealed to the Idaho Court of Appeals. Because the

district court dismissed the original charge of racketeering, the Court of Appeals determined that resolving many of the issues raised by Hoyle would be of no benefit, and the district court was correct in declaring a mistrial. Hoyle appeals to this Court.

We agree with the Court of Appeals in that Hoyle's suppression and prosecutorial challenges are moot and the jury did not return a unanimous verdict. Also, the proper terminology describing the standard of review for a motion for judgment of acquittal under I.C.R. 29(c) is whether there was substantial and competent evidence upon which a trier of fact could have found the essential elements of the crime beyond a reasonable doubt. We agree with the district court in denying Hoyle's Motion for Acquittal for Count B racketeering because substantial and competent evidence exists in the record to satisfy all the elements of racketeering. Moreover, we adopt the Court of Appeals' reasoning and conclusion and determine that I.C. § 18-301 is inapplicable. The judgment of the district court is affirmed.