IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 34545

STATE OF IDAHO,	)	**2008 Unpublished Opinion No. 529**
	)	
Plaintiff-Respondent,	)	**Filed: July 2, 2008**
	)	
v.	)	**Stephen W. Kenyon, Clerk**
	)	
RYAN A. YANDT,	)	**THIS IS AN UNPUBLISHED**
	)	**OPINION AND SHALL NOT**
Defendant-Appellant.	)	**BE CITED AS AUTHORITY**
	)	

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

Order denying motion for correction of illegal sentence, affirmed.

Molly J. Huskey, State Appellate Public Defender; Justin M. Curtis, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Jessica M. Lorello, Deputy Attorney General, Boise, for respondent.

LANSING, Judge

Ryan A. Yandt appeals from the district court's denial of his Rule 35 motion for correction of an illegal sentence. He argues that he was sentenced under an inapplicable statutory provision. Because Yandt was sentenced based on the correct statutory provision, we affirm.

I.

BACKGROUND

In 2004, an information was filed charging Yandt with "domestic violence" in violation of Idaho Code § 18-918(2)(a). Yandt pleaded guilty to the charge, and the district court imposed a unified sentence of ten years with two years fixed and retained jurisdiction. After the retained jurisdiction period, the court placed Yandt on probation for three years. The court found that Yandt had violated probation four months later. The court revoked probation and ordered the original sentence executed.

Yandt filed a Rule 35 motion to correct an illegal sentence, in which he argued that his sentence was illegal because he was incorrectly sentenced pursuant to I.C. § 18-918(2)(b), which provides the punishment for "felony domestic battery," rather than I.C. § 18-112,[1] which specifies the punishment for felonies for which no other punishment has been prescribed. The district court denied Yandt's Rule 35 motion on the ground that I.C. § 18-918(2)(b) does in fact designate the punishment for a violation of I.C. § 18-918(2)(a). Yandt now appeals.

II.

ANALYSIS

The statute under which Yandt was charged and sentenced, I.C. § 18-918(2), provides in part:

> (a) Any household member who commits a battery, as defined in section 18-903, Idaho Code, and willfully and unlawfully inflicts a traumatic injury upon any other household member is guilty of a felony.
>
> (b) A conviction of felony domestic battery is punishable by imprisonment in the state prison for a term not to exceed ten (10) years or by a fine not to exceed ten thousand dollars ($10,000) or by both fine and imprisonment.

Although I.C. § 18-918(2)(a) refers to a battery inflicted on another household member in certain circumstances as a felony, Yandt argues that violation of § 18-918(2)(a) is not "felony domestic battery" because subsection (a) does not use that term.

This Court exercises free review over the application and construction of statutes. *State v. Reyes*, 139 Idaho 502, 505, 80 P.3d 1103, 1106 (Ct. App. 2003). Where the language of a statute is plain and unambiguous, this Court must give effect to the statute as written, without engaging in statutory construction. *State v. Rhode*, 133 Idaho 459, 462, 988 P.2d 685, 688 (1999); *State v. Burnight*, 132 Idaho 654, 659, 978 P.2d 214, 219 (1999); *State v. Escobar*, 134 Idaho 387, 389, 3 P.3d 65, 67 (Ct. App. 2000). The language of the statute is to be given its plain, obvious, and rational meaning. *Burnight*, 132 Idaho at 659, 978 P.2d at 219. In determining the ordinary meaning of a statute effect must be given to all the words of the statute if possible, so that none will be void, superfluous, or redundant. *State v. Mercer*, 143 Idaho 108, 109, 138 P.3d 308, 309 (2006). A statute is to be construed as a whole without separating one

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[1] Idaho Code § 18-112 states "Except in cases where a different punishment is prescribed by this code, every offense declared to be a felony is punishable by imprisonment in the state prison not exceeding five (5) years, or by fine not exceeding fifty thousand dollars ($50,000), or by both such fine and imprisonment."

provision from another. *Burnight*, 132 Idaho at 659, 978 P.2d at 219. If the language is clear and unambiguous, there is no occasion for the court to resort to legislative history or rules of statutory interpretation. *Escobar*, 134 Idaho at 389, 3 P.3d at 67. When this Court must engage in statutory construction, it has the duty to ascertain the legislative intent and give effect to that intent. *Rhode*, 133 Idaho at 462, 988 P.2d at 688. To ascertain the intent of the legislature, not only must the literal words of the statute be examined, but also the context of those words, the public policy behind the statute, and its legislative history. *Id*. Constructions of a statute that would lead to an absurd result are disfavored. *State v. Doe*, 140 Idaho 271, 275, 92 P.3d 521, 525 (2004); *State v. Yager*, 139 Idaho 680, 690, 85 P.3d 656, 666 (2004).

It is clear in this case that the legislature intended I.C. § 18-918(2)(b) to prescribe the punishment for a violation of I.C. § 18-918(2)(a). Although not explicitly stated, the language in I.C. § 18-918(2)(a) is plainly defining felony domestic battery. Under the title "Domestic violence," the subsection prescribes when a battery committed against a household member is a felony. Therefore, the "felony domestic battery" that I.C. § 18-918(2)(b) refers to is clearly the offense that is defined in § 18-918(2)(a). Furthermore, if I.C. § 18-918(2)(b) does not prescribe the punishment for I.C. § 18-918(2)(a), then I.C. § 18-918(2)(b) would be superfluous, having no purpose at all.

We conclude that Yandt was properly sentenced under I.C. § 18-918(2)(b), and therefore affirm the district court's denial of his Rule 35 motion to correct an illegal sentence.

Chief Judge GUTIERREZ and Judge PERRY **CONCUR.**