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State v. Bradshaw Appellant's Reply Brief Dckt. 39943

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 39943
Plaintiff-Respondent,)	
)	ADA COUNTY NO.
v.)	CR 2011-17363
)	
JAMES CLAYTON BRADSHAW,)	REPLY BRIEF
)	
Defendant-Appellant.)	
_____)	

REPLY BRIEF OF APPELLANT

APPEAL FROM THE DISTRICT COURT OF THE FOURTH JUDICIAL
DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE
COUNTY OF ADA

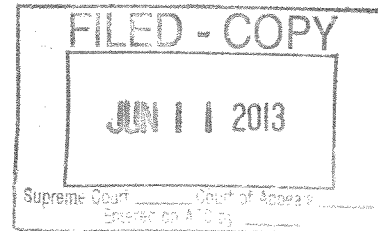
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STATEMENT OF THE CASE

Nature of the Case

In his Appellant's Brief, Mr. Bradshaw asserted that the evidence presented was insufficient to support his conviction for felony destruction of evidence, and requested that the Idaho Court of Appeals' decision in *State v. Peteja*, 139 Idaho 607 (Ct. App. 2003), be overruled as having been wrongly decided because it relied on public policy considerations and legislative history, rather than the rule of lenity, in expanding the scope of the ambiguous statute under which the defendant was charged. Mr. Bradshaw maintained that, were the statute properly interpreted, the evidence presented at trial in this case was insufficient to establish his guilt on the charge of felony destruction of evidence.

In response, the State argues, *inter alia*, that the Court of Appeals' opinion in *Peteja* is "controlling precedent," and that Mr. Bradshaw has failed to show that *Peteja* was wrongly decided, or otherwise advance any proper justification for departing from controlling Idaho Court of Appeals precedent."

This Reply Brief is necessary to respond to the State's argument that *Peteja* is controlling precedent and that he failed to show that it was wrongly decided. With respect to the State's remaining arguments, Mr. Bradshaw will rely on the arguments and authority set forth in his Appellant's Brief.

Statement of the Facts and Course of Proceedings

The statement of the facts and course of proceedings were previously articulated in Mr. Bradshaw's Appellant's Brief. They need not be repeated in this Reply Brief, but are incorporated herein by reference.

ISSUE

Does the principle of *stare decisis* control Mr. Bradshaw's request that the Idaho Supreme Court overrule the Idaho Court of Appeals' decision in *Peteja*, and did Mr. Bradshaw fail to show that it was wrongly decided?

ARGUMENT

The Principle Of *Stare Decisis* Does Not Control Mr. Bradshaw's Request That The Idaho Supreme Court Overrule The Idaho Court Of Appeals' Decision In *Peteja*, and Mr. Bradshaw Showed That It Was Wrongly Decided

In its Respondent's Brief, the State argues,

Idaho jurisprudence requires respect for its own precedent. The rule of *stare decisis* dictates that controlling precedent be followed "unless it is manifestly wrong, unless it has proven over time to be unjust or unwise, or unless overruling it is necessary to vindicate plain, obvious principles of law and remedy continued injustice." *State v. Dana*, 137 Idaho 6, 9, 43 P.3d 765, 768 (2002); *State v. Humphreys*, 134 Idaho 657, 660, 8 P.3d 652, 655 (2000) (quoting *Houghland Farms, Inc. v. Johnson*, 119 Idaho 72, 77, 803 P.2d 978, 983 (1990)).

...

Bradshaw has failed [to] show that *Peteja* was wrongly decided, or otherwise advance any proper justification for departing from controlling Idaho Court of Appeals precedent. This Court should therefore both decline his invitation to overrule *Peteja*, and affirm Bradshaw's conviction for felony destruction of evidence.

(Respondent's Brief, pp.5-11.)

The State's argument is flawed for one important reason: the decisions of the Idaho Court of Appeals are not binding upon the Idaho Supreme Court. See *State v. Morton*, 140 Idaho 235, 238 (2004) ("Although persuasive, Court of Appeals decisions are not binding case law precedent in this Court."). To hold otherwise, and to accord decisions of the Idaho Court of Appeals the protection of *stare decisis* under such circumstances, would fundamentally alter the power and authority of the Idaho Supreme Court to say what the law in Idaho is, binding the Idaho Supreme Court to precedent from the Idaho Court of Appeals unless the parties, or the Idaho Supreme Court itself, could demonstrate that the Idaho Court of Appeals' precedent was "manifestly wrong, . . . [had] proven over time to be unjust or unwise, or unless overruling it is necessary to


vindicate plain, obvious principles of law and remedy continued injustice.” The Idaho Supreme Court should reject the State’s attempt to limit its power to overturn legal principles adopted by the Idaho Court of Appeals.

Recognizing the possibility that this case will be assigned to the Idaho Court of Appeals, Mr. Bradshaw will respond to the State’s argument that he has failed to show that *Peteja* was wrongly decided or otherwise provide justification for the Idaho Court of Appeals to overrule *Peteja* by noting that he provided a cogent argument for why it was wrongly decided in his Appellant’s Brief, including his argument “that *Peteja* was incorrectly decided insofar as the Court of Appeals failed to consider the rule of lenity adopted by the Idaho Supreme Court and improperly resorted to consideration of public policy concerns and legislative history in interpreting the criminal statute’s ambiguous language.” (Appellant’s Brief, p.13.)

CONCLUSION

For the reasons set forth in his Appellant’s Brief and in this Reply Brief, Mr. Bradshaw respectfully requests that this Court overrule *Peteja*, apply the rule of lenity to interpret Idaho Code § 18-2603, find that the evidence presented at trial was insufficient to support a conviction for felony destruction of evidence, and remand this matter to the district court for sentencing on a misdemeanor charge of destruction of evidence.

DATED this 11th day of June, 2013.



SPENCER J. HAHN
Deputy State Appellate Public Defender

CERTIFICATE OF MAILING

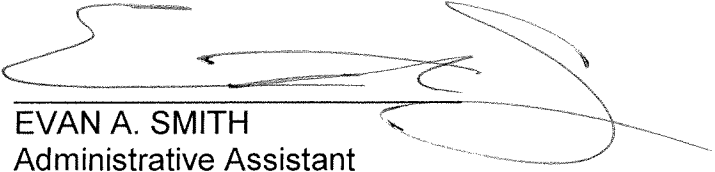
I HEREBY CERTIFY that on this 11th day of June, 2013, I served a true and correct copy of the foregoing APPELLANT'S REPLY BRIEF, by causing to be placed a copy thereof in the U.S. Mail, addressed to:

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