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## State v. Edghill Respondent's Brief Dckt. 40477

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IN THE SUPREME COURT OF THE STATE OF IDAHO

**COPY**

STATE OF IDAHO,	)	
	)	No. 40477
Plaintiff-Respondent,	)	
	)	Bear Lake Co. Case No.
vs.	)	CR-1997-228
	)	
TEDDY LYNN EDGHILL,	)	
	)	
Defendant-Appellant.	)	
	)	

**BRIEF OF RESPONDENT**

**APPEAL FROM THE DISTRICT COURT OF THE SIXTH JUDICIAL  
DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE  
COUNTY OF BEAR LAKE**

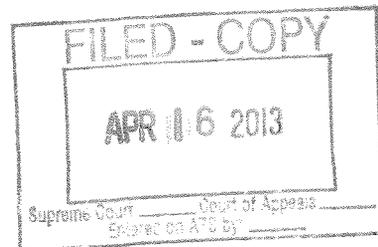
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## STATEMENT OF THE CASE

### Nature of the Case

Teddy Lynn Edghill appeals the district court's order denying his Rule 35 motion to set aside or correct the district court's sentence which the Court of Appeals already determined was not illegal on Edghill's prior appeal. On this appeal, Edghill again argues that his initial sentence was illegal, and that the denial of his most recent Rule 35 motion was an abuse of the district court's discretion, because it resulted in a harsher sentence than that initially imposed.

### Statement of Facts and Course of Proceedings

In 1997, Teddy Lynn Edghill allowed several children to ride on the front bumper of a jeep while he drove. State v. Edghill, 134 Idaho 218, 219, 999 P.2d 255, 256 (Ct. App. 2000). One of the children, six year old Tyler Corbett either fell or jumped off, and Edghill ran over the child with the jeep. Id. The child died from injuries sustained in the accident. Id. Edghill pled guilty to vehicular manslaughter and the district court sentenced him to a term of six years with three years fixed, and suspended Edghill's driver's license for life. Id. The district court also retained jurisdiction. Id. At the end of the retained jurisdiction period, the district court suspended execution of Edghill's sentence and ordered four years' probation; the driver's license suspension was not altered. Id.

Edghill filed a Rule 35 motion, challenging the legality of his lifetime driver's license suspension, and requesting as leniency, a withheld judgment. Id. The district court denied the withheld judgment. Id. In a separate order, the district court found the lifetime driver's license suspension was not illegal. Id.

The district court also stated it would consider a petition for reinstatement of Edghill's driver's license after ten years from the original judgment. Id. at 219, 999 P.2d at 256, n. 1. Edghill appealed the ruling. Id. at 219, 999 P.2d at 256.

The Idaho Court of Appeals held that the district court did not abuse its discretion in denying withheld judgment. Id. at 221, 999 P.2d at 258. As to the lifetime driver's license suspension, the court noted that Edghill did not argue it was an abuse of discretion, only that it was illegal. Id. at 220, 999 P.2d at 257, n. 2. The court also noted that neither party raised an issue whether the district court had jurisdiction to entertain a petition for reinstatement of driving privileges, thus the court did not address the issue. Edghill, 134 Idaho at 219, 999 P.2d at 256, n. 1. In a majority opinion, the court concluded that the lifetime driver's suspension was not an illegal sentence. Id.<sup>1</sup>

After completing his retained jurisdiction program and the requirements of his supervised probation, Edghill requested termination of probation and reduction of his conviction to a misdemeanor. (R., p. 12.) The district court denied the request to terminate probation and did not reduce the conviction to a misdemeanor. (R., pp. 14-15.) Edghill's assertions that he was released from probation and his conviction reduced to a misdemeanor (Appellant's brief, p. 6) are thus unsupported by the record. (R., pp. 14-15.)

Edghill made a number of requests to reinstate driving privileges. It bears mentioning that a number of Edghill's assertions on appeal are inconsistent with

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<sup>1</sup> As to this second issue, Judge Schwartzman dissented, writing that the maximum suspension under I.C. § 18-4007(3)(d) should be ten years. Edghill, 134 Idaho at 221, 999 P.2d at 258 (emphasis omitted).

the record. (See Appellant's brief, pp. 6-7.) According to the record, the district court first granted Edghill an Order for Conditional Temporary Driving License Permit in September 2005, for 90 days. (R., pp. 19-20.) The district court entered a second order, for one year, in July 2006 (R., p. 22), and a third order in September 2008, for two years (R., p. 24). In January 2012, some 15 months after the third order expired, Edghill again requested reinstatement of driving privileges. (R., p. 26-27.) District Judge Mitchell Brown denied the request. (R., pp. 30-31.)

Edghill filed a Rule 35 motion, asking that the court "set aside the illegal sentence and resentence [him] . . . or in the alternative correct the sentence imposed by Judge Harding to allow [Edghill] the opportunity to regain his driving privileges." (R., p. 32.) In a memorandum decision and order, Judge Brown explained that "the portion of Judge Harding's original and amended sentence that retained jurisdiction and allowed [the court] to modify the lifetime suspension, was illegal." (R., p. 41.) Judge Brown concluded that the lifetime suspension of Edghill's driving privileges in the original judgment was final, and "the Court lacked ongoing jurisdiction to review and modify a final judgment." (R., p. 41.) Because Rule 35 is "strictly limited to the correction of the illegal portion of an illegal sentence," the court lacked power to reach the legal portions of the sentence. (R., p. 44 (citing U.S. v. Jordan, 895 F.2d 512 (9th Cir. 1989)).) The district court thus denied Edghill's Rule 35 motion.

Edghill now timely appeals the district court's order. (R., pp. 46-47.)

## ISSUES

Edghill states the issues on appeal as:

1. Judge Brown by correcting, modifying or imposing a new sentence on the Appellant by striking the clause that allowed the Appellant to apply for driving privileges after a ten year period, resulted in the Appellant receiving a harsher sentence than the sentenced [sic] originally imposed by Judge Harding.
2. Judge Brown's Memorandum Decision and Order on Defendant's Rule 35 Motion dated October 12, 2012, which either corrected, modified or imposed a new sentence that suspended the driving privileges of the Appellant for the remainder of his life was an abuse of discretion.
3. The original sentence by judge Harding was an illegal sentence and the Appellant should be granted a new sentencing.

(Appellant's brief, p. 8.)

The state rephrases the issues as:

1. Has Edghill failed to show the district court's order should be reversed where the court correctly applied the facts and law pursuant to Edghill's motion, but the result was unfavorable to Edghill?
2. Is Edghill precluded from rearguing that his original sentence was illegal?

## ARGUMENT

### I.

#### Edghill Has Failed To Show The District Court's Order Should Be Reversed Where The Court Correctly Applied The Facts And Law Pursuant To Edghill's Motion, But The Result Was Unfavorable To Edghill

##### A. Introduction

Edghill correctly states that the district court's ruling on his Rule 35 motion resulted in a harsher sentence than that in effect before he filed his motion. (Appellant's brief, p. 8.) Under the district court's ruling, Edghill's driver's license suspension is final; prior to his motion, the district court entertained requests for reinstatement. (R., p. 41.) However, Edghill fails to show the district court's recent order can be disturbed on appeal.

##### B. Standard Of Review

In reviewing a district court's denial of a Rule 35 motion, the appellate court applies an abuse of discretion standard. State v. Adair, 145 Idaho 514, 516, 181 P.3d 440, 442 (2008). For such review, the appellate court considers whether the district court (1) was aware its decision was discretionary, (2) acted within the scope of its discretion and consistent with applicable law, and (3) reached its decision through exercise of reason. State v. Miller, 151 Idaho 828, 834, 264 P.3d 935, 941 (2011). However, for issues of law, the appellate court exercises free review. Fields v. State, 149 Idaho 399, 400, 234 P.3d 723, 724 (2010).

C. Applicable Law, Misidentified By Edghill, Supports The District Judge's Order

Edghill asserts that the applicable standard of review is that he must show vindictiveness by Judge Brown, in imposing a “more severe sentence . . . after a new trial.” (Appellant’s brief, p. 9, citing State v. Robbins, 123 Idaho 527, 850 P.2d 176 (1993).) Robbins is inapplicable here. District Judge Brown did not impose sentence following a new trial. There was no new trial. Instead, Edghill filed a motion under Rule 35 to set aside or correct an illegal sentence. (R., p. 32.)

Contrary to Edghill’s arguments, there is an objective basis for Judge Brown’s decision on Edghill’s Rule 35 motion: application of the law. As Edghill acknowledges (Appellant’s brief, p. 9), Rule 35 allows the court to correct an illegal sentence at any time. I.C.R. 35. But the court’s authority under Rule 35 “is strictly limited to the correction of the illegal portion of an illegal sentence.” (See R., p. 44, citing U.S. v. Jordan, 895 F.2d 512 (9th Cir. 1989).) In denying Edghill’s renewed request for driving privileges (R., p. 32), Judge Brown reasoned that the Idaho Court of Appeals already determined the lifetime driver’s license suspension was legal (R., p. 44). The only illegal portion of Judge Harding’s sentence was the portion “giving the [c]ourt authority to review the lifetime ban.” (R., p. 44.)

The Court of Appeals explicitly declined to address whether the district court had jurisdiction to review the lifetime ban, as neither party raised the issue. Edghill, 134 Idaho at 219, 999 P.2d at 256, n. 1. In his Rule 35 motion at issue here, Edghill again challenged the legality of Judge Harding’s sentence. Where

the Court of Appeals had declined, Judge Brown addressed whether the district court could consider petitions to reinstate driving privileges.

1. District Court Lacks Authority To Revisit License Suspension In Perpetuity

Judge Brown noted that a defendant's driver's license may be suspended "for a time determined by the Court" under I.C. § 18-4006(3), but nothing in the law allows the court "to unilaterally determine whether it will reconsider its suspension at a later date." (R., 43.) Judge Brown's order is supported by Idaho law.

The district court has power to suspend a sentence, but only where it has retained jurisdiction under statutory authority. State v. Williams, 126 Idaho 39, 44, 878 P.2d 213, 218 (Ct. App. 1994). The district court does not have retained jurisdiction over Edghill per I.C. § 19-2601(4).<sup>2</sup> The courts have further noted, "The Idaho Constitution does not grant the judiciary perpetual jurisdiction over a defendant to adjust, amend, or suspend a sentence." State v. Petersen, 149 Idaho 808, 814, 241 P.3d 981, 987 (Ct. App. 2010). Thus there is no valid legal basis for the district court to entertain revision of Edghill's suspension "in perpetuity . . . [w]ithout any finality to the judgment." (R., p. 41.)

2. Edghill's Attack Is Barred As Invited Error

In this appeal, Edghill attacks Judge Brown's decision as an abuse of discretion. In Idaho, a party is estopped from asserting error where the alleged

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<sup>2</sup> The Report of Action reflects that the district court did retain jurisdiction in 1998. Retained jurisdiction is limited to 365 days under I.C. § 19-2601(4), and would therefore have expired some time in 1999 at the latest.

error was induced by the party's own conduct. State v. Pentico, 151 Idaho 906, 915, 265 P.3d 519, 528 (Ct. App. 2000) (other citations omitted). This 'invited error' doctrine applies to sentencing decisions. Id. Because Edghill asked the district court to correct the illegality in Judge Harding's sentencing decision, he is estopped from asserting that a valid correction is error.

It is clear that Edghill disagrees with Judge Brown's decision, and believes it to be unfair. (Appellant's brief, p. 11.) But Edghill has cited no legal authority to support that Judge Brown's order should be reversed. Absent a legal justification, and given the legal validity of the order, Edghill has failed to demonstrate his requested relief should be granted.

## II.

### Edghill Is Precluded From Re-Challenging His Original Sentence

Edghill challenges his lifetime driver's license suspension, arguing both abuse of discretion and legal error. (Appellant's brief, pp. 11-14.) These arguments fail as a matter of law.

#### A. Edghill's Abuse Of Discretion Argument Fails For Untimeliness And Under The Doctrine Of Waiver

Edghill characterizes his argument as a challenge to Judge Brown's exercise of discretion. (Appellant's brief, p. 11.) However, the subject of Edghill's attack is his lifetime driver's license suspension. (See Appellant's brief, pp. 11-13.) Although Judge Brown ordered the finality of the previously imposed lifetime license suspension, his decision was a purely legal determination. (See Section I.) It was Judge Harding who exercised sentencing discretion and imposed the lifetime suspension. Thus, Edghill's abuse of discretion challenge is

to Judge Harding's 1998 judgment. Edghill's abuse of discretion arguments are either untimely or waived.

An appellant has 42 days from the filing date of judgment or order, to file his notice of appeal. I.A.R. 14(a). Because Edghill's challenge is to Judge Brown's 1998 judgment, his appeal here is untimely. (R., pp. 46-48.) To the extent he may assert he timely appealed his 1998 judgment, this argument fails as well. On appeal, issues not supported by propositions of law or authority are deemed waived. I.A.R. 35(a)(6); Woods v. Sanders, 150 Idaho 53, 58, 244 P.3d 197, 202 (2010). In his first appeal, Edghill did not argue his lifetime suspension was an abuse of sentencing discretion, thus the Court of Appeals did not address it. Edghill, 134 Idaho at 220, 999 P.2d at 257, n. 2. The Court of Appeals' decision became final in May 2000. Id.; I.A.R. 38(b).

There is therefore no legal basis for this Court to consider Edghill's abuse of discretion argument.

B. Edghill's Error Of Law Argument Fails Under Doctrine Of Res Judicata

Edghill again argues that his lifetime license suspension is illegal. The doctrine of res judicata provides that, "in an action between the same parties upon the same claim or demand, the former adjudication concludes parties and privies . . . as to every matter offered and received to sustain or defeat the claim." State v. Rhoades, 134 Idaho 862, 863, 11 P.3d 481, 482 (2000). The Idaho Supreme Court has applied the doctrine to a criminal defendant's attempt to raise issues previously addressed on direct appeal in a subsequent petition for post-conviction relief. State v. Beam, 115 Idaho 208, 210-11, 766 P.2d 678,

680-81 (1988). The doctrine can also be applied to Rule 35 motions. Rhoades, 134 Idaho at 863-64, 11 P.3d at 482-83.

Applied here, res judicata precludes Edghill's claim. As in his first direct appeal, Edghill asserts that Judge Harding's sentencing provision suspending his driver's license for life, is illegal. (Appellant's brief, pp. 13-14.) The Court of Appeals has already determined that Edghill's lifetime license suspension, imposed by Judge Harding, is legal. Edghill, 134 Idaho 218, 999 P.2d 255. The claim has been decided. Accordingly, Edghill's argument fails.

#### CONCLUSION

The state respectfully requests that this Court affirm the district court's order.

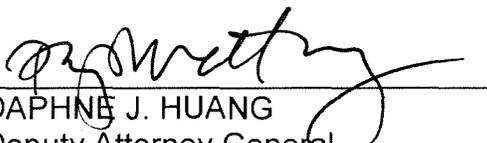
DATED this 16th day of April, 2013.

  
\_\_\_\_\_  
DAPHNE J. HUANG  
Deputy Attorney General

#### CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 16th day of April, 2013, I caused two true and correct copies of the foregoing BRIEF OF RESPONDENT to be placed in the United States mail, postage prepaid, addressed to:

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Deputy Attorney General

DJH/pm