

1-27-2014

State v. Buhler Respondent's Brief Dckt. 41199

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IN THE SUPREME COURT OF THE STATE OF IDAHO

COPY

STATE OF IDAHO,)	
)	No. 41199
Plaintiff-Respondent,)	
)	Bear Lake Co. Case No.
vs.)	CR-1986-580
)	
CHRISTIAN BUHLER, III,)	
)	
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

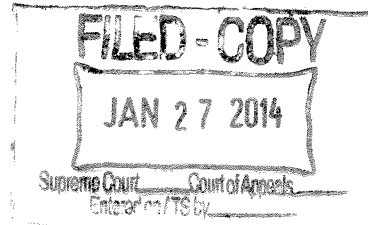
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STATEMENT OF THE CASE

Nature of the Case

Christian Buhler appeals from the district court's order denying his motion for expungement of record.

Statement of Facts and Course of Proceedings

In 1986, Buhler pled guilty to aggravated assault. (R., p. 19.) The district court withheld execution of sentence and placed Buhler on probation for three years. (R., p. 22.) On Buhler's satisfactory completion of probation, the district court discharged and released him from further probation supervision, and entered his conviction. (R., p. 24.)

In 2012, Buhler filed a Motion for Expungement of Record. (R., pp. 25-26.) The district court took judicial notice of Buhler's Register of Actions from Madison County in case number CR-2012-0002433, and a National Crime Information Center (NCIC) report on Buhler.¹ (R., pp. 33-34.) Based on these documents, and others in the record, the district court denied Buhler's motion for expungement. (R., pp. 30-33.) Further, the district court – in its discretion – declined to grant Buhler leniency or dismissal, or to reduce his conviction to a misdemeanor, finding such actions to be incompatible with the public interest. (R., pp. 34-35.)

Buhler timely appealed. (R., pp. 37-39.)

¹ Buhler filed a motion, simultaneously with Appellant's brief, for this Court to take judicial notice of the ROA and NCIC report, to which the state does not object. (12/26/13 Motion.)

ISSUE

Buhler states the issue on appeal as:

Did the district court err by denying Mr. Buhler's motion for expungement?

(Appellant's brief, p. 3.)

The state rephrases the issue as:

Has Buhler failed to show the district court erred or abused its discretion in denying his motion for expungement?

ARGUMENT

Buhler Has Failed To Show The District Court Erred Or Abused Its Discretion In Denying His Motion For Expungement

A. Introduction

Although he acknowledges the district court had no statutory authority to expunge his record, Buhler argues the district court abused its discretion by failing to grant him alternative relief. (Appellant's brief, p. 4.) Buhler's argument fails because he cannot meet his burden on appeal of showing an abuse of discretion.

B. Standard Of Review

A district court's decision whether to grant relief under I.C. § 19-2604(1) is discretionary. State v. Dieter, 153 Idaho 730, 733, 291 P.3d 413, 416 (2012). Such decision will be upheld on appeal where the district court "(1) correctly perceived the issue as one of discretion; (2) acted within the outer boundaries of its discretion and consistently with the legal standards applicable to the specific choices available to it; and (3) reached its decision by an exercise of reason." Id. (quoting State v. Gurney, 152 Idaho 502, 503, 272 P.3d 474, 475 (2012)).

C. The District Court Acted According To Law And Within Its Discretion In Denying Buhler's Motion For Expungement

Buhler moved to expunge his record under I.C. § 19-2604(1)(a). (R., p. 25.) That provision permits the court, in prescribed circumstances, to "terminate the sentence or set aside the plea of guilty or conviction of the defendant, and finally dismiss the case and discharge the defendant or . . . amend the judgment

of conviction” I.C. § 19-2604(1)(a). As Buhler concedes on appeal, § 19-2604 does not provide for expungement as requested in his motion. See State v. Parkinson, 144 Idaho 825, 829, 172 P.3d 1100, 1104 (2007) (holding that § 19-2604 “does not require or authorize the complete expungement of all records and references to the charge”) (abrogated on other grounds in Verska v. St. Alphonsus Reg. Med. Ctr., 151 Idaho 889, 1265 P.3d 502 (2011)). Contrary to Buhler’s argument, the record does not support that the district court abused its discretion in not granting him alternative relief.

The district court understood it had “discretionary authority to . . . set aside [Buhler’s] plea or conviction, and/or dismiss [his] case.” (R., p. 31.) In denying Buhler relief, the court reasoned that it would be “contrary to the public interest.” (R., p. 35.) In support, the court cited Buhler’s new charges, as of July 2012, including two felony counts of burglary, two misdemeanor counts of petit theft, two counts of attempted petit theft, and one count of possession of burglary tools. (R., p. 33 (citing ROA, Madison County case CR-2012-2433).) According to the Madison County record, Buhler “was sentenced to a unified sentence of ten (10) years, with three (3) years determinate” upon entry of his guilty plea to three of those charges. (R., pp. 33-34.)

Buhler maintains the district court abused its discretion by failing to grant alternative relief because he “at all times complied with the terms of probation in the case in which he sought relief.” (Appellant’s brief, p. 5.) Buhler’s compliance with the terms of his probation from 1986 to 1989 does not militate against a finding that relief was warranted. But nor does it compel the court to grant relief

in its exercise of discretion. Importantly, there is nothing in the record to support that setting aside Buhler's plea or conviction, or dismissing the 1986 aggravated assault case would be in the public's interest, as opposed to Buhler's private interest. See Dieter, 153 Idaho at 735, 291 P.3d at 418. Buhler has made no argument otherwise. Accordingly, Buhler has failed to carry his burden on appeal of showing the district court abused its discretion.

CONCLUSION

The state respectfully requests that this Court affirm the district court's order denying Buhler's Motion for Expungement of Record.

DATED this 28th day of January, 2014.



DAPHNE J. HUANG
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 28th day of January, 2014, served a true and correct copy of the attached BRIEF OF RESPONDENT by causing a copy addressed to:

JUSTIN M. CURTIS
DEPUTY STATE APPELLATE PUBLIC DEFENDER

to be placed in The State Appellate Public Defender's basket located in the Idaho Supreme Court Clerk's office.



DAPHNE J. HUANG
Deputy Attorney General

DJH/pm