

**IN THE SUPREME COURT OF THE STATE OF IDAHO**

STATE OF IDAHO, )  
 ) No. 45594  
 Plaintiff-Respondent, )  
 ) Bonneville County Case No.  
 v. ) CR-2014-8632  
 )  
 CODY WILLIAMS, )  
 )  
 Defendant-Appellant. )  
 \_\_\_\_\_ )

\_\_\_\_\_  
**BRIEF OF RESPONDENT**  
\_\_\_\_\_

**APPEAL FROM THE DISTRICT COURT OF THE SEVENTH JUDICIAL  
DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE  
COUNTY OF BONNEVILLE**

\_\_\_\_\_  
**HONORABLE JON J. SHINDURLING**  
**District Judge**  
\_\_\_\_\_

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## STATEMENT OF THE CASE

### Nature Of The Case

Cody Williams appeals from the district court's denial of his motion for return of property.

### Statement Of The Facts And Course Of The Proceedings

Williams pled guilty to possession of a controlled substance and being a persistent violator in exchange for the state dismissing additional charges and a stipulated sentence. State v. Williams, 2016 Unpublished Opinion No. 598, Docket No. 43423 (Idaho App., July 15, 2016). The Idaho Court of Appeals rejected his claim of an excessive sentence under the invited error doctrine. Id.

After completion of the appeal, Williams filed a *pro se* motion under I.A.R. 31.1 for return of property, namely a Harley Davidson motorcycle. (R., pp. 36-37.) The district court appointed counsel. (R., p. 63; Tr., p. 4, Ls. 2-7.) His counsel represented at the hearing that the motorcycle was the subject of a forfeiture hearing and he was unable to find any authority indicating I.A.R. 31.1 applied. (Tr., p. 4, L. 14 – p. 5, L. 1; p. 5, L. 21 – p. 6, L. 10.) Counsel further represented that the forfeiture was granted by default and that Williams' efforts to get the default set aside had been rejected by the magistrate and, on appeal, the district court and the Idaho Court of Appeals. (Tr., p. 4, L. 23 – p. 5, L. 20.)

The district court denied the motion. (R., p. 80; Tr., p. 7, L. 18 – p. 8, L. 13.) Williams filed a timely notice of appeal from the denial of his motion. (R., pp. 84-88.)

## ISSUE

Williams states the issue on appeal as:

Did the district court abuse its discretion when it denied Mr. Williams' motion for order permitting reclamation of property pursuant to Idaho Appellate Rule 31.1?

(Appellant's brief, p. 2.)

The state rephrases the issue as:

Has Williams failed to show the district court had authority to order the return of his motorcycle, which was forfeited in different proceedings, much less that it abused its discretion?

## ARGUMENT

### Williams Has Failed To Show The District Court Had Authority To Order The Return Of His Motorcycle

The district court concluded there was “no basis” to return the motorcycle to Williams because title to the motorcycle had been transferred to the state in forfeiture proceedings that were then “res judicata to us in this case.” (Tr., p. 7, L. 18 – p. 8, L. 9.) On appeal Williams is “mindful” that there was no authority allowing the district court to order the return of a motorcycle that no longer belonged to Williams, but nevertheless “contends the district court abused [its] discretion in denying the motion.” (Appellant’s brief, p. 3.) Because Williams rightly acknowledges that there was no legal authority for the district court to return to Williams a motorcycle that no longer belonged to him, he has failed to show an abuse of discretion.

## CONCLUSION

The state respectfully requests this Court to affirm the order denying the motion for reclamation of property.

DATED this 20th day of July, 2018.

/s/ Kenneth K. Jorgensen  
KENNETH K. JORGENSEN  
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 20th day of July, 2018, served a true and correct copy of the foregoing BRIEF OF RESPONDENT to the attorney listed below by means of iCourt File and Serve:

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KKJ/dd