

4-21-2014

# State v. Young Respondent's Brief Dckt. 41541

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IN THE SUPREME COURT OF THE STATE OF IDAHO

**COPY**

STATE OF IDAHO,	)	
	)	No. 41541
Plaintiff-Respondent,	)	
	)	Kootenai Co. Case No.
vs.	)	CR-2013-1576
	)	
TROY CAMRON YOUNG,	)	
	)	
Defendant-Appellant.	)	

**BRIEF OF RESPONDENT**

**APPEAL FROM THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI**

**HONORABLE PENNY E. FRIEDLANDER, Magistrate Judge  
HONORABLE MICHAEL J. GRIFFIN, District Judge**

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**APR 21 2014**  
Supreme Court \_\_\_\_\_ Court of Appeals \_\_\_\_\_  
Entered on ATS by \_\_\_\_\_

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PLAINTIFF-RESPONDENT**

**ATTORNEY FOR  
DEFENDANT-APPELLANT**

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## STATEMENT OF THE CASE

### Nature Of The Case

Troy Cameron Young appeals from the district court's intermediate appellate decision affirming his judgment of conviction in the magistrate court for domestic battery. On appeal, he argues that the magistrate court erred by refusing to instruct the jury on affirmative defenses after finding insufficient evidence to support those instructions, and that the magistrate court misinterpreted the plain, unambiguous language of Idaho Code § 18-918.

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

At his daughter's fourth birthday party, Young became enraged at his daughter's birth mother, Shiloh High, when she refused to take a drug test and he tackled her. (R., pp.206-07.) Police cited Young with domestic battery in the presence of a child. (R., p.7.) Young stood trial on the charge (R., pp.96-119), and the jury returned a guilty verdict (R., p.128). The magistrate entered judgment against Young on the misdemeanor, fined him \$500.00, and placed him on probation for two years with the requirement to provide 56 hours of community service. (R., p.134.) Young appealed his conviction to the district court. (R., pp.137-40.)

Young presented two arguments on appeal. First, he argued that the magistrate court erred by declining his affirmative defense instructions. (R., pp.168-77.) Second, he asserted that his conviction for domestic battery was legally deficient, arguing that, though they shared the same biological child, he and Ms. High did not have a "child in common" and were therefore not "household members." (R., pp.177-80.) The district court heard oral argument and took the matter under advisement. (R., pp.204-05).

Determining that the magistrate court had correctly interpreted the term “household members” and had properly declined Young’s proposed affirmative defense instructions, the district court affirmed the magistrate court. (R., pp.206-10.) Young filed a timely notice of appeal. (R., pp.214-17.)

## ISSUES

Young's statement of the issues on appeal is found at page 8 of his Appellant's brief and is lengthy. The state rephrases the issues on appeal as:

1. Has Young failed to show error in the district court's appellate decision affirming the magistrate court's refusal to instruct the jury on the affirmative defenses of self-defense/defense of others and necessity where Young failed to produce sufficient evidence to support the giving of those instructions?

2. Idaho Code § 18-918 defines "household member" as, *inter alia*, "a person who has a child in common regardless of whether they have been married." The magistrate court determined that this definition included the biological parents of a child. Has Young failed to show error in the district court's appellate decision affirming the magistrate court's correct interpretation of Idaho Code § 18-918?

## ARGUMENT

### I.

#### Young Has Failed To Show Error In The District Court's Appellate Decision Affirming The Magistrate's Refusal To Give Instructions To The Jury Which Were Not Supported By The Evidence

##### A. Introduction

Young contends that the district court erred by affirming the magistrate court's refusal to give a self-defense/defense of others instruction and a necessity instruction, asserting that declining his proposed instructions deprived him of his right to present a defense. (Appellant's brief, pp.9-19.) Application of the correct legal standards to the facts of this case shows no error in the magistrate court's refusal to give the requested instructions because Young was not entitled to those instructions. The district court correctly affirmed the magistrate court and should be affirmed.

##### B. Standard Of Review

On review of a decision rendered by a district court in its intermediate appellate capacity, the reviewing court "directly review[s] the district court's decision." State v. DeWitt, 145 Idaho 709, 711, 184 P.3d 215, 217 (Ct. App. 2008) (citing Losser v. Bradstreet, 145 Idaho 670, 183 P.3d 758 (2005)). Whether a jury was properly instructed is a question of law over which the appellate court exercises free review. State v. Draper, 151 Idaho 576, 587-88, 261 P.3d 853, 864-65 (2011) (citing State v. Humphreys, 134 Idaho 657, 659, 8 P.3d 652, 654 (2000)).

C. Young Was Not Entitled To His Proposed Affirmative Defense Instructions

A trial court may properly refuse a requested instruction which is not supported by the evidence. State v. Johns, 112 Idaho 873, 881, 736 P.2d 1327, 1335 (1987); State v. Mason, 111 Idaho 660, 669-70, 726 P.2d 772, 781-82 (Ct. App. 1986) (self-defense instruction not supported by evidence). A defendant is not entitled to a jury instruction that is an erroneous statement of the law, is not supported by the evidence, is an impermissible comment on the evidence, or is adequately covered by other instructions. Johns, 112 Idaho at 881, 736 P.2d at 1335; State v. Turner, 136 Idaho 629, 632-33, 38 P.3d 1285, 1288-89 (Ct. App. 2002); State v. Camp, 134 Idaho 662, 665-66, 8 P.3d 657 (Ct. App. 2000). To be entitled to an instruction on an affirmative defense, a defendant must “present facts sufficient to make out a *prima facie* case relevant to [the] defense.” Camp, 134 Idaho at 665-66, 8 P.3d at 660-61. Whether a reasonable view of the evidence supports an instruction is a matter within the trial court’s discretion. State v. Bush, 131 Idaho 22, 32, 951 P.2d 1249, 1259 (1997); State v. Howley, 128 Idaho 874, 878, 920 P.2d 391, 395 (1996).

1. Young Failed To Present Sufficient Evidence To Support A Self-Defense/ Defense Of Others Instruction

On appeal, Young argues that the district court erred by affirming the magistrate court’s refusal to give his requested self-defense/defense of others instruction. (Appellant’s brief, pp.14-15.) Young’s claim fails because he did not meet his burden of establishing that a self-defense instruction was supported by the evidence.

To be entitled to a self-defense instruction, Young had to demonstrate from the record “evidence of reasonable fear of some level of bodily harm,” State v. Hansen, 133

Idaho 323, 329, 986 P.2d 346, 352 (Ct. App. 1999), and that the battery he committed was a reasonable response to the level of threat posed by the victim, Mason, 111 Idaho at 670, 726 P.2d at 782. Reviewing the record, the district court held that the magistrate court properly rejected the requested self-defense instruction because there was no evidence whatsoever that there was any imminent threat of bodily harm from the victim at the time of the battery. (R., p.209.)

On appeal, Young appears to argue that the failure to give his modified self-defense instruction, replacing “bodily harm” with just “harm,” was error. (Appellant’s brief, pp.14-15.) Young claims that homicide is justified anytime a defendant attempts to prevent a felony; therefore, he reasons, self-defense should be justified regardless of an imminent threat of bodily harm. (Id.) Young’s premise is flawed because his statement of the law regarding justifiable homicide is incorrect. Under his view of the law, a defendant would be justified for killing someone if he believed that victim was attempting to commit tax evasion. In fact, under the actual law, homicide is only justified to defend one’s self or others from *violent* felonies which could reasonably result in great bodily injury or death. See State v. Rodriguez, 93 Idaho 286, 291, 460 P.2d 711, 716 (1969) (proposed instruction which omitted statutory requirement of “great bodily injury” was an incorrect statement of the law).

As regards justifiable battery, the law is equally clear: A fear of bodily harm is required for a battery to be justified. See Hansen, 133 Idaho at 329, 986 P.2d at 352. This requirement is also set forth in the pattern jury instructions: for a battery to be justified, a defendant must be protecting himself or another against an imminent threat of *bodily* harm. I.C.J.I. 1517. It is well settled that the pattern jury instructions are

presumptively correct. McKay v. State, 148 Idaho 567, 571 n.2, 225 P.3d 700, 704 n.2 (2010) (citations omitted). Young's arguments and unique theories of the law fail to rebut this presumption. Young failed to present any evidence before the magistrate court that he committed the battery against Ms. High in order to prevent an imminent threat of bodily harm to their biological daughter. He was therefore not entitled to an instruction on self-defense. Young's alternative jury instruction was an incorrect statement of the law. He was therefore not entitled to that modified instruction. See Johns, 112 Idaho at 881, 736 P.2d at 1335.

2. Young Failed To Present Sufficient Evidence To Support A Necessity Instruction

On appeal, Young also argues that the district court erred by affirming the magistrate court's refusal to give his requested necessity instruction. (Appellant's brief, pp.15-19.) Young's claim fails because he did not meet his burden of establishing that a necessity instruction was supported by the evidence.

To be entitled to an instruction on the necessity defense, Young had to show: (1) a specific threat of immediate harm; (2) the circumstances that necessitated the illegal act were not caused by the defendant; (3) the same objective could not have been accomplished by a less offensive alternative available to the defendant; and (4) the harm caused was not disproportionate to the harm avoided. State v. Hastings, 118 Idaho 854, 855, 801 P.2d 563, 564 (1990); see also I.C.J.I. 1512. Reviewing the record, the district court held that the magistrate court properly rejected the requested necessity instruction because Young's "offer of proof included no evidence of any

specific threat, let alone a specific threat by word or act, that High was taking immediate steps to kidnap” their biological daughter. (R., p.210.)

On appeal, Young argues that the district court “plainly erred in making its ruling on” the basis that there was no immediate specific threat of harm to justify the battery under the theory of necessity, because the “issue was not briefed by the parties or argued before the District Court.” (Appellant’s brief, pp.18-19.) Young’s argument fails on two bases: First, while preservation is relevant to the issue of whether an appellant may later raise a *challenge* to a lower court’s ruling that was not first presented before that court, preservation has no bearing on whether an appellate court may *affirm* a correct ruling by applying the correct legal standards. See Row v. State, 135 Idaho 573, 579, 21 P.3d 895, 901 (2001) (“Where the lower court reaches the correct result by an erroneous theory” this Court can apply “the correct theory” and affirm). Young has failed to present any authority that an appellate court may not correctly apply the law and affirm a trial court on an independent basis and has therefore waived this claim of error. State v. Zichko, 129 Idaho 259, 263, 923 P.2d 966, 970 (1996).

Second, even if this issue had to be preserved for the district court to reach it in its appellate capacity, whether Young had satisfied all of the essential elements of a necessity defense was squarely before the court. Those essential elements include the requirement that there be a specific threat of immediate harm. Hastings, 118 Idaho at 855, 801 P.2d at 564. Contrary to Young’s insinuations, the district court did not engage in any fact-finding in its appellate capacity; it simply applied the correct legal standards to the facts Young proffered below and found them wanting in relation to the requirement of a specific threat of immediate harm. (See R., p.210.) Young has failed

to show error in the district court's application of the correct legal standards to the facts proffered below.

Young also contends that the magistrate court prevented him from presenting a complete defense and usurped the role of the jury in deciding the facts of the case when it determined that Young was not entitled to a necessity instruction because he failed to show that battering Ms. High was the least offensive means of preventing the harm of her alleged kidnapping attempt. (Appellant's brief, pp.15-18.) In fact, as noted above, one of the essential elements of a necessity defense is a showing that the same objective could not have been accomplished by a less offensive alternative available to the defendant. Hastings, 118 Idaho at 855, 801 P.2d at 564; I.C.J.I. 1512. The magistrate did not usurp the jury's function by determining that Young had failed to make this showing; whether a reasonable view of the evidence would support giving the instruction is in fact a matter within the trial court's discretion. Bush, 131 Idaho at 32, 951 P.2d at 1259; Howley, 128 Idaho at 878, 920 P.2d at 395. Young has failed to show an abuse of the trial court's discretion.

Because Young failed to make a *prima facie* case on each element of his proposed affirmative defenses, the magistrate court did not err by declining to give Young's proposed instructions which were not supported by the evidence. Acting in its appellate capacity, the district court correctly affirmed the magistrate court and should be affirmed.

## II.

### Young Has Failed To Show Error In The District Court's Appellate Decision Affirming The Magistrate's Interpretation Of Idaho Code § 18-918

#### A. Introduction

Below, the magistrate court interpreted Idaho Code § 18-918 and determined that the “has a child in common” definition of “household member” encompassed the two biological parents of the same child. (See R., p.91.) On appeal to the district court, Young argued that he could not be guilty of domestic battery because, he asserted, he and Ms. High were not “household members.” (See R., pp.177-80.) The district court affirmed the magistrate. (R., p.209.) On appeal, Young presents essentially the same argument to this Court. (Appellant’s brief, pp.19-22.) Application of the correct legal standards, however, shows that the magistrate’s interpretation of Idaho Code § 18-918 is correct. The district court’s appellate decision should be affirmed.

#### B. Standard Of Review

On review of a decision rendered by a district court in its intermediate appellate capacity, the reviewing court “directly review[s] the district court’s decision.” State v. DeWitt, 145 Idaho 709, 711, 184 P.3d 215, 217 (Ct. App. 2008) (citing Losser v. Bradstreet, 145 Idaho 670, 183 P.3d 758 (2005)). The interpretation and construction of a statute present questions of law over which the appellate court exercises free review. State v. Thompson, 140 Idaho 796, 798, 102 P.3d 1115, 1117 (2004).

C. Under The Plain Language Of Idaho Code § 18-918, The Two Biological Parents Of The Same Child Come Within The Definition Of “Household Member”

The objective of statutory interpretation is to give effect to legislative intent. State v. Pina, 149 Idaho 140, 144, 233 P.3d 71, 75 (2010); Robison v. Bateman-Hall, Inc., 139 Idaho 207, 210, 76 P.3d 951, 954 (2003). Because “the best guide to legislative intent” is the words of the statute, the interpretation of a statute must begin with the literal words of the statute. State v. Doe, 147 Idaho 326, 328, 208 P.3d 730, 732 (2009). Where the statutory language is unambiguous, a court does not construe it but simply follows the law as written. McLean v. Maverik Country Stores, Inc., 142 Idaho 810, 813, 135 P.3d 756, 759 (2006).

Idaho Code § 18-918 is unambiguous and provides, in pertinent part: “‘Household member’ means ... a person who has a child in common regardless of whether they have been married ....” I.C. § 18-918(1)(a). Consistent with the plain meaning of the literal words of this statute, the magistrate court interpreted “has a child in common” to encompass the two biological parents of a single child. The district court affirmed the magistrate court’s decision to adhere to the law as set forth in the statute’s unambiguous language. (R., p.209.)

On appeal, Young requests that this Court instead ignore the plain language of the statute and “hold that to ‘ha[ve] a child in common’ is the designation of an enduring relationship.” (Appellant’s brief, pp.19-22 (brackets original).) This Court should decline that invitation. Young has failed to show that the unambiguous language, “has a child in common,” does not encompass the two biological parents of the same child. The magistrate’s statutory interpretation of Idaho Code § 18-918, which simply accepts the

literal words of the statute, is manifestly correct. The district court correctly affirmed the magistrate court and should be affirmed.

CONCLUSION

The state respectfully requests that this Court affirm the district court's appellate decision affirming Young's conviction and sentence.

DATED this 21st day of April, 2014.

  
\_\_\_\_\_  
RUSSELL J. SPENCER  
Deputy Attorney General

CERTIFICATE OF MAILING

I HEREBY CERTIFY that I have this 21st day of April, 2014, served two true and correct copies of the attached RESPONDENT'S BRIEF by placing the copies in the United States mail, postage prepaid, addressed to:

JAY W. LOGSDON  
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\_\_\_\_\_  
RUSSELL J. SPENCER  
Deputy Attorney General

RJS/pm

