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# Bell v. Idaho Department of Labor Appellant's Brief Dckt. 41592

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

**Idaho Court of Appeals**

CHARLES C. BELL

Claimant / Appellant,

SUPREME COURT NO. 41542

v

Docket No. 41592-2013

SEARS

Industrial Commission #4832-2013

Employer / Respondent,

and

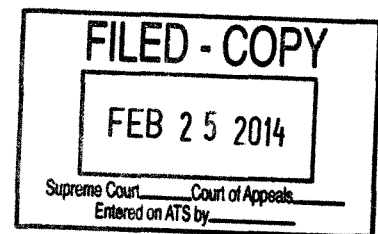
**APPELLANT BRIEF**

IDAHO DEPARTMENT OF LABOR

Respondent.

**For Claimant / Appellant**

Charles Christian Bell, ProSe  
1009 Terra Avenue  
Twin Falls, ID 83301  
Phone Number (208) 733-3959



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## **TABLE OF CASES AND AUTHORITIES**

### **I. Idaho Statutes**

- A. Idaho Code, § 72-1312**
- B. Idaho Code, § 72-1329**
- C. Idaho Code, § 72-1366 p701**
- D. Idaho Code, § 72-1366(12)**
- E. Idaho Code, § 72-1369(5)**
- F. Idaho Code, § 72-1396(2)**

### **II. Case Authority**

- A. Meyer v. Skyline Mobile Homes,**  
99 Idaho 754, 761, 589 P.2d 89 (1979)
- B. Smith v. State Department of Employment,**  
107 Idaho 625, 628, 691 P2d 1240 (1984)

## **RESPECT TO THE COURT**

With ultimate respect to the Court, Claimant desires approaching this complex appeal with truthfulness, sincerity, integrity, and brevity. Claimant, as a ProSe litigant, appreciates indulgence by the Court in his good faith effort to apprise the Court of the fact and law on which he relies.

## **STATEMENT OF THE CASE**

This is an unemployment eligibility case per Idaho Employment Security Laws: §72-1312; §72-1366(12), §72-1329, §72-1369(2), and §72-1369(5). Charles Christian Bell (Claimant) is appealing with persistence, and unfalteringly differs [*Agency Record, P7; P42-P49*], in opinions and decisions, based on the relevant facts of the case, misinterpretation, translation and erroneous application of the phrases “willful intent” and “part-time” employee, letter and intent of aforementioned associated laws, with subsequent unreasonable Decision(s) of Appeals Examiner on July 12, 2013, docket number 4832-2013, [*Agency Record, P1-P6*], continuing resultant Claimant appeals, and related decisions, denials and rulings by the Idaho Department of Labor (IDOL), and Idaho Industrial Commission (IIC).

### **I. IDOL and IIC’s Application / Definition of “Willful” from 1979**

The IDOL and IIC’s positions, opinions, and rulings rely on their interpretation and application of the following definition of “willful”, and cited herewith from the Idaho Supreme Court in 1979:

- a) *Meyer v. Skyline Mobile Homes*, 99 Idaho, 754, 761, 589, P.2d 89, 95 (1979): The Idaho Supreme Court has defined “willful” as follows:

“(Willfully) implies simply a purpose or willingness to commit the act or make the omission referred to. It does not require any intent to violate law, in the same sense of having an evil or corrupt motive or intent. It does imply a conscious wrong, and may be distinguished from an act maliciously or corruptly done in that it does not necessarily imply an evil mind, but is more nearly synonymous with ‘intentionally,’ ‘designedly,’ ‘without lawful excuse.’ And therefore not accidental.” Id. at 565, 201 P. at 1043.

## **II. Claimant’s Application / Definition of “Willful” from 1984**

Claimant contends that even within the held position of the IDOL and IIC through Meyer v. Skyline Mobile Homes (1979), there remains ambiguous language “...does imply a conscious wrong”, with further opportunity for scrutiny by the Court; thus, furthering the Claimant’s position of there being no evidence presented by the IDOL nor IIC, of a conscious or mindful wrong perpetrated by Claimant. Claimant’s position and opinion relies on the Idaho Supreme Court’s definition of “willful” as cited herewith, comments by Supreme Court Justice Huntley in 1984:

- a) Smith v. State Department of Employment, 107 Idaho, 625, 628 691 P.2d, 1240 (1984):  
“In Meyer v. Skyline Mobile Home, supra, we reaffirmed earlier Idaho case law indicating that “willful” implies a conscious wrong. 99 Idaho at 761, 589 P.2d at 96. We stated:

The Legislature’s presumed knowledge of our interpretations of willful in *Archbold* and *Hall* suggests that it intended to disqualify those claimants who purposely, intentionally, consciously, or knowingly fail to report a material fact, not those whose omission is accidental because of negligence, misunderstanding or other cause. (Citations omitted.)

To interpret the ‘willful’ requirement in I.C. § 72-1366 (I), otherwise, as was done in this case, would create a type of constructive knowledge. We therefore reverse the holding of the Commission that Claimant willfully failed to report a material fact in order to obtain unemployment insurance benefits, as being based upon the erroneous interpretation of ‘willful’.”

## **STATEMENT OF THE FACTS**

1) Any / all acknowledged reporting errors were and remain strictly inadvertent and accidental.

IDOL and IIC rulings depend conclusively on Sears' updated pay reporting(s) to Claimant in April 2013. These updated pay reportings were obtained by Claimant at the request of IDOL. IDOL solicited Claimant to request, from Sears, physical copies of all pay stubs documenting compensation to Claimant during the time of Claimant's employment with Sears [*Hearing dated July 9, 2013, Exhibit 17, P1*]. Claimant readily complied with this request from IDOL [*Hearing dated July 9, 2013, Exhibit 3, P2, Initial Fact Finding Date / Time Stamp 2013-04-08 16:03*]. Also note Initial Fact Finding comment [*Hearing dated Jul 9, 2013, Exhibit 3, P2, Initial Date / Time Stamp 04/10/13, 9:39 am...*], resulting in timely response from Claimant [*Hearing dated July 9, 2013, Exhibit 18, P1*]. Further communication from the IDOL was by telephone to Claimant, with requests for additional information [*Hearing dated July 9, 2013, Exhibit 3, P3, Initial Fact Finding Date / Time Stamp 05/06/13, 3:53 pm...*]. Claimant then provided updated pay reporting(s) through data supplied by the updated pay stubs reporting(s) in the form of pay stubs from Sears; then, transferred / copied and delivered in the form of a spreadsheet to IDOL on May 8, 2013 [*Hearing dated July 9, 2013, Exhibit 19, P2*]. The Claimant had no reasonable awareness, knowledge or access to the aforementioned pay stubs from Sears until April 2013; which was more than 5 months after Claimant had made initial filing(s) [*Agency Record, P51, note print date of Wed Apr 03 09:34:50 EDT 2013, for pay stub of 2012-10-05*].



2) It was, is, and remains thoroughly implausible Claimant forecast / predict the (now corrected and updated information) utilized by the Claimant for reporting of wages, as provided to the Claimant by Sears in April 2013, and subsequently forwarded through physical (hand-delivered) pay stub(s) (wage records) submission to the IDOL on April 4, 2013 [Hearing dated July 9, 2013, Exhibit 3, P2, Initial Fact Finding Date / Time Stamp 2013-04-08 16:03.] Claimant had no access to, knowledge of, or receipt of physical pay stubs from Sears during timeframe (October 6, 2012, through January 26, 2013). All claimed overpayments and associated (purported) discrepancies were caused solely by inadvertence and accident, and made to a Claimant who had no way of reasonably, rationally, or logically knowing he received benefits to which he was potentially not entitled. Claimant received only notification of pay through direct deposit into checking account [Agency Record, P50]. The direct deposit screen shot merely displays total deposit. It is void of hours worked, rate of pay, and associated taxes deducted.

Additional comment regarding the physical pay stubs from Sears: These pay stubs, which were provided to Claimant by Sears in April 2013, verify an unmistakable lack of relevant data [Agency Record, P51]. Claimant's pay stubs, from previous employers, predictably displayed data indicating hours worked and rate of pay; whereas, Sears' pay stubs are void of this data. Therefore, even considering if Sears had provided Claimant with these pay stubs during the timeframe of purported errors, and Claimant's routine review of his online banking deposit statement, it would again present multifarious issues, impeding precise reporting of hours and wages. It remains the contention of the Claimant he was

directed by Sears' management to refer to and depend upon what were ever-elusive and changing posted schedules for reporting of hours worked to the IDOL [*Agency Record, P29, paragraph 1b, ii; Agency Record, P30, paragraph 2b*].

- 3) After notification from the IDOL in April 2013, regarding potential errors within the reporting period from September 2012 to February 2013, Claimant, with frequency and persistence, in a timely fashion, willingly responded and cooperatively assisted the IDOL in discovering and correcting potential errors [*Hearing dated July 9, 2013, Exhibits 18 and 23; Exhibit 34, P1-P2 and P22-P29*].
- 4) “Based on the evidence in record, the Commission sets forth the following Findings of Fact.
  1. Claimant worked for Employer. Employer categorized Claimant as a “part-time” employee. However, there were weeks that Claimant would work full-time hours, but he would work less than full-time hours during the following weeks.” [*Agency Record, P16, under Findings of Fact, #1*].
- 5) The interpretation, definition and understanding for full-time employment, as provided and conveyed to Claimant by Sears' management, are in contrast of the IDOL definition. Claimant mistakenly acknowledged and accepted to equate Sears' definition as the definitive and correct definition for full-time employment [*Hearing Transcript, P10, lines 19-25; and P11, lines 1-10*].
- 6) In some instances, Sears failed to provide requested information to IDOL [*Hearing dated July 9, 2013, Exhibit 3, P2, Date / Time Stamp 2013-04-01 14:08*], and Sears' management

were unrepresented and absent in hearing of July 9, 2013 [*Hearing Transcript dated July 9, 2013, P2, Appearances*].

- 7) Claimant, with frequency and persistence, denies ever knowingly committing omissions, or conscious wrongs, as referred to and asserted in disputed findings and decisions by the IDOL and IIC. In actuality and fact, Claimant persistently asserted to all parties involved, his personal commitment, and readily assist in resolution of any potential error(s) [*Hearing dated July 9, 2013, Exhibits 18 and 23, and Exhibit 34 P1-P3 and P22-P28*].
- 8) Claimant's ongoing perception was a feeling of being constantly overwhelmed during the process of IDOL fact-finding progression [*Hearing dated July 9, 2013, Exhibit 34, P32*].
- 9) Errors discovered made by IDOL were immediately dismissed and considered unintentional [*Hearing and Audio Recording, Exhibit 22, P11; Hearing Transcript, P24, lines 9-21, note spreadsheet clearly shows handwritten additions*]; however, unintentional errors made by Claimant were scrutinized, and deemed without support, as willful and intentional. Claimant asserts, that perhaps his errors, like those of the IDOL, are purely human error; and there remains nothing to substantiate anything other than this conclusion.

## **I. Summary of Argument**

The Claimant respectfully appeals to the ruling Court, to consider the following in his request to overturn recent unjust, unreasonable, and flawed decisions by the IDOL and the IIC.

### **A. Absence of Intention and *Mens rea* - Guilty Mind**

It is Claimant's personal understanding, that in most cases, an act is not defensible when the individual committing the act consciously performs and fully intends to do something which

is deemed ethically, morally, and wrong by the laws of society, also lawfully recognized as “willful intent.” This conscious state of mind is commonly referred to as "*mens rea*," Latin for "guilty mind." The "*mens rea*" concept is Claimant’s personal understanding where individuals should be punished only when they have knowingly, with design, with full understanding, and “willful intent” consciously performs in a manner making them morally blameworthy. From the perspective of the Claimant, within the discernment of the legal system, individuals intentionally engaging in actions deemed dishonest and subject to legal action through application, letter and intent of state statutes, codes and laws, are properly blameworthy; conversely, individuals who unintentionally engage in the actions deemed dishonest, fraudulent, corrupt, and subject to legal action through application, letter and intent of state statutes, codes and laws, resulting strictly from human error, are reasonably and justly innocent of legal repercussions, blameworthiness, fines, and liabilities. Claimant reiterates and asserts, that perhaps his errors, like those of the IDOL, are purely human error; and there remains nothing to substantiate anything other than this conclusion.

Claimant simply possess no distinct characteristic, intent or guilty mind to formulate, construct and conduct acts of fraud; it is humbly inconceivable within his personal paradigm [*Agency Record, P52-P55*] to fail in pursuance, with every actual, perceived, and sometimes through and despite seemingly insurmountable challenges, a utilization of all his individual and logical resources, in obligation of his personal honor within his individual responsibilities, in achieving the ultimate accurate outcomes, and within his human powers and limitations, produce thorough, truthful, and precise results.

### **EXTENUATING CIRCUMSTANCES**

Claimant is self-described as personally and discretely, a deeply private person. Claimant is cautious and hesitant to readily share personal aspects of his life, particularly in a business forum. Claimant made mention of, and alluded to, personal adversity(s), within appeal(s) to the IDOL, subsequently to the IIC, and currently to the Idaho Supreme Court [*Agency Record, P28, II., a., viii.; Hearing dated July 9, 2013, Exhibit 34, P2, paragraphs L. and M.*]. Although genuinely not excuses, these seemingly extraordinary, real, substantial, compelling, and unrelenting events, do establish to the Court that Claimant was (and is) experiencing prolonged stress within his life. These events likely involuntarily and unwittingly influenced relevant and essential pieces of his decision-making, ability to set priorities, time constraint perceptions, follow-up for important issues, organizational skills, critical thinking skills, indispensable coping skills, and (ongoing) voracious attempts to stabilize normal living conditions. Claimant's reply to IDOL's request is one (now) considered as reactive by the Claimant [*Hearing dated July 9, 2013, Exhibit 34, P32*]. To Claimant's recollection, he has never intentionally exuded the indulgence of self-pity. However, experienced professionals discerning these types of issues are likely to perceive the genuine sense of frustration, duress, helplessness, hopelessness, and desperation within the recorded voice of the Claimant [*Audio for Hearing dated July 9, 2013*].

Claimant contends, in consideration of his extenuating circumstances, it sensible, logical, and reasonable to conclude that Claimant, within this timeframe, made what amounts to simple and unintentional human errors.

## **CONCLUSION**

There is simply no evidence presented by the IDOL or the IIC, to substantiate that Claimant would have reason or intent, as the IDOL and IIC have unreasonably determined, to set out with a conscious mind and “willful intent” (as defined and relied upon by the IDOL and IIC in the *Meyer v. Skyline Mobile Homes*, 99 Idaho, 754, 761, 589, P.2d 89, 95 (1979) ruling), to unlawfully and unscrupulously obtain monies not rightfully owed to him. He has not the time, energy, personal paradigm, forethought, nor interest in defrauding any individual, city, state, or federal entity. Claimant is guiltless of the aforementioned and unsubstantiated claims. Claimant’s assertions of guiltlessness are supported by his understanding, application, intention, definition and reliance upon *Smith v. State Department of Employment*, 107 Idaho 625, 628 691 P.2d, 1240 (1984).

As there remains nothing to substantiate the decisions, opinions and rulings of the IDOL and IIC. any errors in this regard by the Claimant ARE and need by the Court be construed, defined, interpreted, deduced, found, discovered, determined as, and considered strictly as inadvertent and accidental through the application, letter, and intent of associated labor laws in the state of Idaho.

Therefore, the Claimant considers any and all rulings by the Department of Labor and Idaho Industrial Commission, requiring repayment and penalty, and related to date to this issue, as unjust, contrary to equity, incompatible to good conscience, and conflicting with the letter and the intent of the associated rules, statutes, and laws. Due to considerable substantiated and indisputable fact(s) that Claimant **DID NOT** willfully, willingly, knowingly, with dishonest

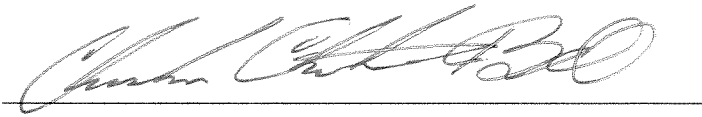
intent or design, nor with “*mens rea*”...a guilty mind...misrepresent or falsify any documents to obtain unemployment benefits, as well as distinct legitimate and reasonable verification of Claimant inadvertently and accidentally submitting discrepancies in claims for unemployment benefits, with substantiation through application and intent of the state statute, codes, and laws, it is sensible and judicious in the aforementioned decision(s), in the interest and carriage of justice, Claimant respectfully requests and submits to compel the Court, that this and all associated rulings be overturned.

**APPELLANT SIGNATURE PAGE**

State of Idaho )  
 ) ss.  
County of Twin Falls )

Charles Christian Bell, being sworn, deposes and says:

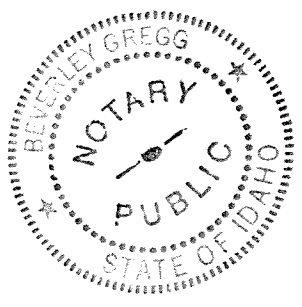
That the party is the Claimant in the above-entitled Appellant Brief, and that all statements in this Appellate Brief are true and correct to the best of his knowledge and belief.



Charles Christian Bell, ProSe  
(signature of claimant / appellant)

Subscribed and Sworn to before me this 24<sup>th</sup> day of February, 20 14.

(SEAL)



Title Notary  
Notary Expires 1-13-17



**CERTIFICATE OF SERVICE**

I hereby certify that on the 24<sup>TH</sup> day of February, 2014, a true and correct copy of the APPELLANT BRIEF was served by regular United States mail upon each of the following:

Mr. Thomas P. Baskin  
Chairman  
Idaho Industrial Commission  
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ccb

