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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,)	NO. 46149-2018
)	
v.)	TWIN FALLS COUNTY
)	NO. CR-2010-6549
JOSHUA LEROY CRAWFORD,)	
)	
Defendant-Appellant.)	

REPLY BRIEF OF APPELLANT

**APPEAL FROM THE DISTRICT COURT OF THE FIFTH JUDICIAL
DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE
COUNTY OF TWIN FALLS**

**HONORABLE BENJAMIN J. CLUFF
District Judge**

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TABLE OF CONTENTS

	<u>PAGE</u>
TABLE OF AUTHORITIES.....	ii
STATEMENT OF THE CASE	1
Nature of the Case	1
Statement of Facts and Course of Proceedings	1
ISSUE PRESENTED ON APPEAL.....	2
ARGUMENT.....	3
The District Court Erred When It Concluded It Lacked Jurisdiction To Consider Mr. Crawford’s Rule 35 Motion	3
CONCLUSION.....	4
CERTIFICATE OF SERVICE.....	4

TABLE OF AUTHORITIES

Cases

State v. Wolfe, 158 Idaho 55 (2015).....3

Rules

I.C.R. 35 1, 2, 3, 4

STATEMENT OF THE CASE

Nature of the Case

Mr. Crawford appeals from the district court's order denying the motion he filed pursuant to Idaho Criminal Rule 35(a). In his Appellant's Brief, he argued the district court erred when it concluded it lacked jurisdiction to consider this motion because it treated the motion as if it sought relief under Idaho Criminal Rule 35(b). (Appellant's Br., pp.3-4.) In its Respondent's Brief, the State concedes the district court had jurisdiction to consider Mr. Crawford's Rule 35(a) motion. (Respondent's Br., p.3.) The State argues, however, that this Court should affirm because Mr. Crawford's claims do not constitute a basis for relief under Rule 35(a). (Respondent's Br., pp.3-4.) Mr. Crawford submits this Reply Brief to argue that, in light of the State's concession, this case must be remanded back to the district court.

Statement of Facts and Course of Proceedings

Mr. Crawford included a statement of facts and course of proceedings in his Appellant's Brief, which he relies on and incorporates herein. (*See* Appellant's Br., p.1.)

ISSUE

Did the district court err when it concluded it lacked jurisdiction to consider Mr. Crawford's Rule 35 motion?

ARGUMENT

The District Court Erred When It Concluded It Lacked Jurisdiction To Consider Mr. Crawford's Rule 35 Motion

The State concedes the district court had jurisdiction to consider Mr. Crawford's Rule 35(a) motion, but argues this Court should affirm because Mr. Crawford's claims do not constitute a basis for relief under Rule 35(a). (Respondent's Br., pp.3-4.) The State does not cite any authority in support of its argument that this Court should consider the merits of Mr. Crawford's Rule 35(a) motion in the first instance. This is not the proper course. The district court wrongly concluded it lacked jurisdiction to consider Mr. Crawford's motion, treating the motion as a Rule 35(b) motion instead of a Rule 35(a) motion. This was a legal error. *See State v. Wolfe*, 158 Idaho 55, 60 (2015) ("Whether a trial court had subject matter jurisdiction over a proceeding is an issue of law that this Court reviews de novo.").

This Court should remand this case to the district court with instructions to properly exercise its jurisdiction and consider the merits of Mr. Crawford's motion under Rule 35(a). If the State believes Mr. Crawford has not stated a basis for relief under Rule 35(a), it can make its arguments to the district court judge on remand.

CONCLUSION

For the reasons stated above, as well as those set forth in his Appellant's Brief, Mr. Crawford respectfully requests that the Court vacate the district court's order denying his Rule 35(a) motion, and remand this case to the district court with instructions to consider the merits of that motion.

DATED this 14th day of February, 2019.

/s/ Andrea W. Reynolds
ANDREA W. REYNOLDS
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of February, 2019, I caused a true and correct copy of the foregoing APPELLANT'S REPLY BRIEF, to be served as follows:

KENNETH K. JORGENSEN
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/s/ Evan A. Smith
EVAN A. SMITH
Administrative Assistant

AWR/eas