

Uldaho Law

Digital Commons @ Uldaho Law

Not Reported

Idaho Supreme Court Records & Briefs

4-26-2019

State v. Steel Appellant's Reply Brief Dckt. 46177

Follow this and additional works at: https://digitalcommons.law.uidaho.edu/not_reported

Recommended Citation

"State v. Steel Appellant's Reply Brief Dckt. 46177" (2019). *Not Reported*. 5327.
https://digitalcommons.law.uidaho.edu/not_reported/5327

This Court Document is brought to you for free and open access by the Idaho Supreme Court Records & Briefs at Digital Commons @ Uldaho Law. It has been accepted for inclusion in Not Reported by an authorized administrator of Digital Commons @ Uldaho Law. For more information, please contact annablaine@uidaho.edu.

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,)	NO. 46177-2018
)	
v.)	TWIN FALLS COUNTY
)	NO. CR42-17-11526
SCOTT DAVID STEEL,)	
)	APPELLANT'S REPLY BRIEF
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 JOHN K. BUTLER
District Judge

ERIC D. FREDERICKSEN
State Appellate Public Defender
I.S.B. #6555

JENNY C. SWINFORD
Deputy State Appellate Public Defender
I.S.B. #9263
322 E. Front Street, Suite 570
Boise, Idaho 83702
Phone: (208) 334-2712
Fax: (208) 334-2985
E-mail: documents@sapd.state.id.us

**ATTORNEYS FOR
DEFENDANT-APPELLANT**

KENNETH K. JORGENSEN
Deputy Attorney General
Criminal Law Division
P.O. Box 83720
Boise, Idaho 83720-0010
(208) 334-4534

**ATTORNEY FOR
PLAINTIFF-RESPONDENT**

TABLE OF CONTENTS

	<u>PAGE</u>
TABLE OF AUTHORITIES.....	ii
STATEMENT OF THE CASE	1
Nature of the Case	1
Statement of the Facts and Course of Proceedings	1
ISSUES PRESENTED ON APPEAL.....	2
ARGUMENT.....	3
I. The District Court Abused Its Discretion By Admitting An Overly Prejudicial Video Of Mr. Steel In The Back Of A Police Car.....	3
II. The District Court Abused Its Discretion By Sentencing Mr. Steel To Twenty Years, With Ten Years Fixed, For Aggravated Assault With A Knife.....	4
III. The District Court Abused Its Discretion By Denying Mr. Steel’s Rule 35 Motion For A Reduction In His Fixed Time.....	4
CONCLUSION.....	5
CERTIFICATE OF SERVICE.....	5

TABLE OF AUTHORITIES

Cases

State v. Jeske, No. 45989 (2019)3, 4

Rules

Idaho Criminal Rule 351, 2, 5

STATEMENT OF THE CASE

Nature of the Case

Scott D. Steel challenges the district court's judgment of conviction and its order denying his Idaho Criminal Rule 35 ("Rule 35") motion. On appeal, he argues the district court abused its discretion by admitting overly prejudicial evidence at trial. He also argues the district court abused its discretion by imposing an excessive sentence and denying his Rule 35 motion for a sentence reduction. The State responded. Mr. Steel now replies, but only to the State's position that Mr. Steel did not provide adequate argument for the evidentiary error on appeal.

Statement of the Facts and Course of Proceedings

Mr. Steel's Appellant's Brief articulated the facts and proceedings. (App. Br., pp.1-4.) They are not repeated here, but are incorporated by reference.

ISSUES

- I. Did the district court abuse its discretion by admitting an overly prejudicial video of Mr. Steel in the back of a police car?
- II. Did the district court abuse its discretion by sentencing Mr. Steel to twenty years, with ten years fixed, for aggravated assault with a knife?
- III. Did the district court abuse its discretion by denying Mr. Steel's Rule 35 motion for a reduction in his fixed time?

ARGUMENT

I.

The District Court Abused Its Discretion By Admitting An Overly Prejudicial Video Of Mr. Steel In The Back Of A Police Car

Mr. Steel replies to the State’s assertion that he failed to provide relevant legal argument for his issue. (Resp. Br., pp.5–6.) The State contends Mr. Steel’s failure to use the word “substantial” in weighing the evidence’s prejudicial effect and probative value renders his argument inadequate. (Resp. Br., pp.5–6.) Mr. Steel respectfully disagrees. For one, the State failed to acknowledge Mr. Steel’s header for this issue: “The District Court Did Not Act Consistently Within The Evidentiary Standards By Admitting A Video Of Mr. Steel In The Back Of The Police Car Because The Danger Of Unfair Prejudice *Substantially* Outweighed The Video’s Probative Value.” (App. Br., p.7 (emphasis added).) In addition, Mr. Steel’s citations to relevant legal authority include Idaho Rule of Evidence 403, which contains the “substantial” term. (App. Br., p.7.)

More importantly, this Court recently rejected a similar position on alleged conclusory arguments in *State v. Jeske*, No. 45989, 436 P.3d 683, 690–91 (2019). In *Jeske*, the Court held the defendant’s failure to recite the standard of review in his opening brief did not render his argument inadequate on appeal. *Id.* at 691. The Court stated its “main concerns are the use of conclusory arguments, lack of authority to support those arguments, or failure to make any attempt to address the factors this Court considers.” *Id.* A “formalistic recitation” of the standard of review was not required to provide the Court with relevant argument and authority. *Id.* Therefore, the defendant’s identification of the legal standard, citations to relevant law, and analysis of the standards provided a sufficient argument on appeal, even though the defendant did not formally recite the standard of review. *Id.* The same analysis applies here. Although

Mr. Steel only used the “substantial” term in his header and his Rule 403 quotation, he identified the legal standards for evidentiary rulings, cited to relevant case law and rules, and applied the standards to the facts of his case. (App. Br., pp.6–9.) This was “not merely a conclusory argument.” *Jeske*, 436 P.3d at 691. Mr. Steel analyzed the evidence’s prejudicial effect, its probative value, and weighed the two. (App. Br., pp.7–9.) He also applied the abuse of discretion standard of review to the evidentiary error. (App. Br., pp.6–9.) Therefore, Mr. Steel submits he supported his issue with relevant legal authority and argument. He respectfully requests this Court consider the issue on the merits.

II.

The District Court Abused Its Discretion By Sentencing Mr. Steel To Twenty Years, With Ten Years Fixed, For Aggravated Assault With A Knife

Mr. Steel respectfully refers this Court to his Appellant’s Brief on this issue. (App. Br., pp.9–12.)

III.

The District Court Abused Its Discretion By Denying Mr. Steel’s Rule 35 Motion For A Reduction In His Fixed Time

Mr. Steel respectfully refers this Court to his Appellant’s Brief on this issue as well. (App. Br., pp.12–15.)

CONCLUSION

For the evidentiary error, Mr. Steel respectfully requests this Court vacate his judgment of conviction and remand his case for a new trial. For the sentencing errors, he respectfully requests this Court reduce his sentence or, in the alternative, vacate his judgment of conviction or the district court's denial of his Rule 35 motion and remand his case for a new sentencing or Rule 35 motion hearing.

DATED this 26th day of April, 2019.

/s/ Jenny C. Swinford
JENNY C. SWINFORD
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of April, 2019, I caused a true and correct copy of the foregoing APPELLANT'S REPLY BRIEF, to be served as follows:

KENNETH K. JORGENSEN
DEPUTY ATTORNEY GENERAL
E-Service: ecf@ag.idaho.gov

/s/ Evan A. Smith
EVAN A. SMITH
Administrative Assistant

JCS/eas