

Uldaho Law

Digital Commons @ Uldaho Law

Not Reported

Idaho Supreme Court Records & Briefs

6-3-2019

State v. Schaeffer Appellant's Reply Brief Dckt. 45854

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

Recommended Citation

"State v. Schaeffer Appellant's Reply Brief Dckt. 45854" (2019). *Not Reported*. 5552.
https://digitalcommons.law.uidaho.edu/not_reported/5552

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.

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

JUSTIN M. CURTIS
Deputy State Appellate Public Defender
I.S.B. #6406
322 E. Front Street, Suite 570
Boise, Idaho 83702
Phone: (208) 334-2712
Fax: (208) 334-2985
E-mail: documents@sapd.state.id.us

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 45854 & 45855
Plaintiff-Respondent,)	
)	KOOTENAI CO. NOS.
v.)	CR-2016-23666 & CR-2017-11646
)	
JASON RAY SCHAEFFER,)	APPELLANT'S REPLY BRIEF
)	
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Jason Ray Schaeffer appeals from the district court's order revoking his probation in Docket No. 45854 and from his judgment of conviction for DUI in Docket No. 45855. He asserts that the district court abused its discretion by refusing to retain jurisdiction in the two cases and by imposing a three-year license suspension in Docket No. 45855. He also asserts that the district court abused its discretion by denying his Idaho Criminal Rule (*hereinafter*, Rule) 35 motion for reduction of sentence. This Reply Brief addresses the State's assertion that the district court lacked jurisdiction to consider the Rule 35 motion.

Statement of the Facts & Course of Proceedings

The Statement of facts and course of proceedings are set forth in the Appellant's Brief, and incorporated herein by reference.

ISSUE

Did the district court have jurisdiction to rule on the Rule 35 motion?

ARGUMENT

The District Court Had Jurisdiction To Rule On The Rule 35 Motion

The State asserts that the district court lacked jurisdiction to rule on the Rule 35 motion because it did not rule on it within a "reasonable time." (Respondent's Brief p.7.) However, as the State notes, Mr. Schaeffer filed his Rule 35 motion 13 days following the issuance of the judgment of conviction, on January 31, 2018. (Respondent's Brief, p.7.) The next day, a Rule 35 hearing was scheduled for August 10, 2018. (Respondent's Brief, p.7.) While the record does not state a reason for this hearing date, Mr. Schaeffer is not responsible for the court's schedule. And the State made no objection to the trial court regarding the hearing date and made no argument at the hearing that the court lost jurisdiction. The court ruled on the motion after it had the hearing, and this occurred 191 days after the timely motion was filed. Because Mr. Schaeffer timely filed a Rule 35 motion and immediately noticed it for a hearing, he asserts that the district court had jurisdiction to rule on the motion, which happened only 71 days beyond the 120-day time frame set out in the Rule.

CONCLUSION

Mr. Schaeffer respectfully requests that this Court reduce his sentences as it deems appropriate. Alternatively, he requests that his case be remanded to the district court for a new disposition and sentencing hearing. Alternatively, he requests that the order denying his Rule 35 motion be reversed and his case remanded for further proceedings.

DATED this 3rd day of June, 2019.

/s/ Justin M. Curtis
JUSTIN M. CURTIS
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of June, 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

JMC/eas