

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)
) No. 48049-2020
 Plaintiff-Respondent,)
) Ada County Case No.
 v.) CR-FE-2003-529
)
 TYLER SHAWN CLAPP,)
)
 Defendant-Appellant.)
)
)

BRIEF OF RESPONDENT

**APPEAL FROM THE DISTRICT COURT OF THE FOURTH JUDICIAL
DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE
COUNTY OF ADA**

**HONORABLE MELISSA MOODY
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 The Facts And Course Of The Proceedings.....	1
ISSUE	2
ARGUMENT	3
Clapp Has Failed To Show That The District Court Abused Its Discretion By Denying His Motion To Dismiss His Conviction.....	3
A. Introduction.....	3
B. Standard Of Review	3
C. Clapp Is Not Eligible For The Dismissal Of His Conviction Under I.C. § 19-2604	3
CONCLUSION.....	6
CERTIFICATE OF SERVICE	6

TABLE OF AUTHORITIES

<u>CASES</u>	<u>PAGE</u>
<u>Lunneborg v. My Fun Life</u> , 163 Idaho 856, 421 P.3d 187 (2018).....	3
<u>State v. Funk</u> , 123 Idaho 967, 855 P.2d 52 (1993)	5
<u>State v. Herrera</u> , 164 Idaho 261, 429 P.3d 149 (2018).....	3
<u>State v. Mowrey</u> , 134 Idaho 751, 9 P.3d 1217 (2000)	3
 <u>STATUTES</u>	
I.C. § 19-2604	1, 3, 4, 5

STATEMENT OF THE CASE

Nature Of The Case

Tyler Shawn Clapp appeals from the district court's denial of his motion to dismiss his 2003 felony driving under the influence conviction pursuant to I.C. § 19-2604(1)(b)(i).

Statement Of The Facts And Course Of The Proceedings

In 2003, Clapp pled guilty to felony driving under the influence (DUI). (See Supp. R., pp.31-35, 44.¹) The district court sentenced Clapp to five years, with two years fixed, and retained jurisdiction for 180 days. (Supp. R., p.45.)

In 2019, Clapp moved to dismiss his conviction pursuant to I.C. § 19-2604(1)(b)(i), asserting that he successfully completed the terms of his probation without any finding of probation violation. (R., pp.9-10, 14.) Along with his motion, Clapp submitted his Offender History records from the Idaho Department of Corrections from February 21, 2006 through July 24, 2008. (R., pp.16-40.) The district court denied the motion, determining Clapp had not shown good cause to grant relief based on the fact that Clapp received additional felony DUI convictions in 2010 and 2020.² (R., p.41.) Clapp filed a timely notice of appeal. (R., pp.43-44.)

¹ This Court augmented the record on appeal to include the Clerk's Record from Clapp's direct appeal from that conviction, Docket No. 29908-2003. (R., p.48.) For consistency with the Appellant's brief, citations to "R." refer to the record prepared for this appeal, No. 48049; citations to "Supp. R." refer to the record prepared for the 2003 appeal, No. 29908, and will use the electronic document's pagination.

² As Clapp notes, his 2010 and 2020 felony DUI convictions are not contained in the record; therefore, the district court implicitly took judicial notice of the judgments of convictions in case numbers CR-FE-2010-7316 and CR01-18-32652. (See Appellant's brief, p.2, n.3.)

ISSUE

Clapp states the issue on appeal as:

Whether the district court abused its discretion by denying Mr. Clapp's motion to dismiss his conviction under I.C. § 19-2604.

(Appellant's brief, p.3.)

The state rephrases the issue as:

Has Clapp failed to show that the district court abused its discretion by denying his motion to dismiss his conviction?

ARGUMENT

Clapp Has Failed To Show That The District Court Abused Its Discretion By Denying His Motion To Dismiss His Conviction

A. Introduction

Clapp argues that the district court abused its discretion when it denied his motion to dismiss his conviction pursuant to I.C. § 19-2604(1)(b)(i). (Appellant’s brief, pp.4-5.) However, as Clapp concedes on appeal, he is not entitled to relief under subsection (1)(b)(i). Further, the relief he sought—dismissal of his conviction—is not available under subsection (2), the provision applicable to Clapp’s sentence and conviction. Thus, the district court properly denied Clapp’s motion.

B. Standard Of Review

A ruling on a motion pursuant to I.C. § 19-2604 “rests within the discretion of the district court.” State v. Mowrey, 134 Idaho 751, 753, 9 P.3d 1217, 1219 (2000). In evaluating whether a lower court abused its discretion, the appellate court conducts a four-part inquiry, which asks “whether the trial court: (1) correctly perceived the issue as one of discretion; (2) acted within the outer boundaries of its discretion; (3) acted consistently with the legal standards applicable to the specific choices available to it; and (4) reached its decision by the exercise of reason.” State v. Herrera, 164 Idaho 261, 272, 429 P.3d 149, 160 (2018) (citing Lunneborg v. My Fun Life, 163 Idaho 856, 863, 421 P.3d 187, 194 (2018)).

C. Clapp Is Not Eligible For The Dismissal Of His Conviction Under I.C. § 19-2604

Idaho Code § 19-2604 allows the court to dismiss a judgment of conviction in certain circumstances if good cause to do so exists. Subsection (1) applies to an enumerated set of

circumstances: (1) where a defendant's sentence is suspended or the defendant receives a withheld judgment; (2) where a felony sentence has been commuted; (3) in a felony case where the district court did not impose sentence to the custody of the board of corrections; (4) where a defendant has not yet been sentenced but has successfully completed drug or mental health court; or (5) in a misdemeanor case where the defendant has not been sentenced to a term in jail or any portion of the sentence is suspended. I.C. § 19-2604(1)(a). If a defendant falls into one of the enumerated categories, he or she may make an application and a satisfactory showing that he or she had no probation violations found or admitted, either in general or after the successful completion of drug or mental health court. I.C. § 19-2604(1)(b)(i)-(ii). If convinced by the satisfactory showing made that there is good cause for granting the requested relief, the court "may terminate the sentence or set aside the plea of guilty or conviction of the defendant, and finally dismiss the case and discharge the defendant or may amend the judgment of conviction from a term in the custody of the state board of correction to 'confinement in a penal facility' for the number of days served prior to sentencing, and the amended judgment may be deemed to be a misdemeanor conviction." I.C. § 19-2604(1)(b).

Subsection (2) applies where a defendant's sentence is imposed but suspended and the district court retains jurisdiction over the case at any period during the first 365 days of the sentence. I.C. § 19-2604(2). The defendant may make an application and the same satisfactory showing as that in subsection (1)(b)—that no probation violation was found or admitted. I.C. § 19-2604(2). However, under this provision, the available relief is much more limited: "the court may amend the judgment of conviction from a term of custody of the state board of correction to 'confinement in a penal facility' for the number of days served prior to suspension, and the amended judgment may be deemed to be a misdemeanor conviction." I.C. § 19-2604(2).

“Pursuant to this statute, the trial court ha[s] authority to amend the judgment to reflect confinement in a penal facility for the time [the defendant] served and to deem the conviction a misdemeanor. The trial court d[oes] not have the authority to dismiss the case.” State v. Funk, 123 Idaho 967, 969, 855 P.2d 52, 54 (1993).

The district court properly denied Clapp’s motion to dismiss his conviction. Clapp sought relief only under I.C. § 19-2604(1)(b)(i) and sought only the dismissal of his conviction. (R., pp.9-10, 14.) However, Clapp was not eligible for relief under that subsection. Because the district court retained jurisdiction, Clapp did not fall under the categories set forth in subsection 1(a) but instead fell under subsection (2). Under that subsection, the court could not grant dismissal of a conviction as a form of relief. See Funk, 123 Idaho at 969, 855 P.2d at 54. Because Clapp requested relief under a statutory provision that was inapplicable to his sentence and sought a form of relief unavailable to him under the proper provision, the district court did not err when it denied his motion to dismiss his conviction.

“Mindful” of the fact that “he does not qualify for relief under subsection (1)” and that subsection (2) “does not allow for dismissal of the conviction,” Clapp nonetheless argues that the district court abused its discretion when it denied his motion to dismiss his conviction. (Appellant’s brief, pp.4-5.) However, Clapp is simply not entitled to relief for which he is not eligible. Thus, the district court did not abuse its discretion when it denied Clapp’s motion to dismiss his conviction.

CONCLUSION

The state respectfully requests this Court affirm the judgment of the district court.

DATED this 14th day of January, 2021.

/s/ Kacey L. Jones
KACEY L. JONES
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 14th day of January, 2021, served a true and correct copy of the foregoing BRIEF OF RESPONDENT to the attorney listed below by means of iCourt File and Serve:

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KLJ/dd