

Uldaho Law

## Digital Commons @ Uldaho Law

---

Idaho Supreme Court Records & Briefs, All

Idaho Supreme Court Records & Briefs

---

6-14-2018

### State v. Matthews Appellant's Reply Brief 2 Dckt. 45295

Follow this and additional works at: [https://digitalcommons.law.uidaho.edu/idaho\\_supreme\\_court\\_record\\_briefs](https://digitalcommons.law.uidaho.edu/idaho_supreme_court_record_briefs)

---

#### Recommended Citation

"State v. Matthews Appellant's Reply Brief 2 Dckt. 45295" (2018). *Idaho Supreme Court Records & Briefs, All*. 7184.

[https://digitalcommons.law.uidaho.edu/idaho\\_supreme\\_court\\_record\\_briefs/7184](https://digitalcommons.law.uidaho.edu/idaho_supreme_court_record_briefs/7184)

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 Idaho Supreme Court Records & Briefs, All by an authorized administrator of Digital Commons @ Uldaho Law. For more information, please contact [annablaine@uidaho.edu](mailto:annablaine@uidaho.edu).

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

STATE OF IDAHO, )  
 ) No. 45295  
 Plaintiff-Respondent- )  
 Cross Appellant, ) Ada County Case No.  
 ) CR-FE-2016-5895  
 v. )  
 )  
 RYAN KELLY MATTHEWS, )  
 )  
 Defendant-Appellant- )  
 Cross Respondent. )  
 )

---

**REPLY BRIEF OF PLAINTIFF-RESPONDENT-CROSS APPELLANT**

---

**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**

---

**LAWRENCE G. WUSDEN  
Attorney General  
State of Idaho**

**ANDREA W. REYNOLDS  
Deputy State Appellate Public Defender  
322 E. Front St., Ste. 570  
Boise, Idaho 83702  
(208) 334-2712**

**PAUL R. PANTHER  
Deputy Attorney General  
Chief, Criminal Law Division**

**JEFF NYE  
Deputy Attorney General  
Criminal Law Division  
P. O. Box 83720  
Boise, Idaho 83720-0010  
(208) 334-4534**

**ATTORNEYS FOR  
PLAINTIFF-RESPONDENT**

**ATTORNEY FOR  
DEFENDANT-APPELLANT**

**TABLE OF CONTENTS**

	<b><u>PAGE</u></b>
TABLE OF AUTHORITIES .....	ii
ARGUMENT .....	1
The District Court Abused Its Discretion When It Refused To Order The Restitution Requested By The State .....	1
CONCLUSION.....	3
CERTIFICATE OF SERVICE .....	3

## **TABLE OF AUTHORITIES**

<b><u>CASES</u></b>	<b><u>PAGE</u></b>
<u>State v. Cardoza</u> , 155 Idaho 889, 318 P.3d 658 (Ct. App. 2014).....	2
<u>State v. Cunningham</u> , 161 Idaho 698, 390 P.3d 424 (2017).....	2
<u>State v. Ehrlick</u> , 158 Idaho 900, 354 P.3d 462 (2014).....	1, 2
<u>State v. Kelley</u> , 161 Idaho 686, 390 P.3d 412 (2017).....	1, 2

## ARGUMENT

### The District Court Abused Its Discretion When It Refused To Order The Restitution Requested By The State

After Ryan Kelly Matthews lost a motion to suppress, he changed his plea to guilty and agreed to pay the costs of prosecution. (5/5/2017 Tr., p.51, L.18 – p.52, L.5.) At the sentencing hearing, the district court refused to order restitution for the prosecution costs on the sole basis that doing so would result in Matthews “hav[ing] to pay for exercising [his] constitutional right.” (6/30/2017 Tr., p.77, Ls.6-17.) That rationale is directly contrary to the Idaho Supreme Court’s holding that payment of restitution “does not impermissibly chill Sixth Amendment rights to stand trial and present a defense.” State v. Kelley, 161 Idaho 686, 691, 390 P.3d 412, 417 (2017). The district court thus abused its discretion by denying restitution based on a legally erroneous rationale. See State v. Ehrlick, 158 Idaho 900, 910, 354 P.3d 462, 472 (2014) (holding district court abused its discretion where its decision was inconsistent with Idaho Supreme Court precedent).

Matthews’s response is an all-out assault on an argument the state never made. He spends his brief responding to the argument that restitution is constitutionally required in all cases. (Appellant’s Reply p.4 (“That restitution is constitutionally permissible under *Kelley* does not mean it is constitutionally mandated.”).) That is, obviously, not the state’s position.

The decision whether to impose restitution is always left to the discretion of the district court. Kelley, 161 Idaho at 691, 390 P.3d at 417. But the district court must exercise that discretion “consistently with relevant legal standards.” Id. This means the district court cannot deny restitution, even as a matter of “discretion,” on the basis that payment of restitution impermissibly infringes a defendant’s constitutional rights when the

Idaho Supreme Court has expressly held that it does not. See Ehrlick, 158 Idaho at 910, 354 P.3d at 472. That is precisely what happened here. Compare (6/30/2017 Tr., p.77, Ls.6-17 (denying restitution because it would require Matthews “to pay for exercising [his] constitutional right”)), with Kelley, 161 Idaho at 691, 390 P.3d at 417 (“[W]e affirm that section 37-2732(k) does not impermissibly chill Sixth Amendment rights to stand trial and present a defense.”). Because the district court abused its discretion, this Court should remand for the district court to address the restitution issue anew. See State v. Cardoza, 155 Idaho 889, 895, 318 P.3d 658, 664 (Ct. App. 2014).

Matthews claims that remand would be “a waste of judicial resources, as the district court would surely exercise its discretion and reach the same decision on remand.” (Appellant’s Reply, p.5.) But he cites nothing to support that assertion in the record, which actually suggests the district court would have imposed restitution were it not for the legally erroneous rationale. The legally erroneous rationale is the only reason the district court gave for denying restitution. (6/30/2017 Tr., p.77, Ls.6-17.) And the district court recognized that Matthews had, in fact, agreed to pay the restitution. (Id. (“I am not going to impose the restitution *that you agreed to, frankly . . .*”) (emphasis added).) This Court should therefore remand the restitution issue to the district court. See Cardoza, 155 Idaho at 895, 318 P.3d at 664.<sup>1</sup>

---

<sup>1</sup> In a footnote, Matthews argues that this Court should affirm the district court because the state failed to present sufficient evidence for the costs of prosecution. (Appellant’s Reply, p.5 n.1 (citing State v. Cunningham, 161 Idaho 698, 701-02, 390 P.3d 424, 427-28 (2017)).) But the evidentiary burden discussed in Cunningham has no application where the state and defendant have reached an agreement as to the costs of prosecution. See Cunningham, 161 Idaho at 701, 390 P.3d at 427 (“[H]ere, the number of hours and the hourly rate are both disputed.”). Here, the state did not need to prove the costs of prosecution because Matthews had already agreed to pay them and did not dispute the amount. (5/5/2017 Tr., p.51, L.18 – p.52, L.5; 6/30/2017 Tr., p.77, Ls.6-17.)

CONCLUSION

The state respectfully requests this Court vacate the district court's order of restitution and remand the case to the district court to reconsider the amount Matthews must pay in restitution.

DATED this 14th day of June, 2018.

/s/ Jeff Nye  
JEFF NYE  
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 14th day of June, 2018, served a true and correct copy of the foregoing REPLY BRIEF OF PLAINTIFF-RESPONDENT-CROSS APPELLANT by emailing an electronic copy to:

ANDREA W. REYNOLDS  
DEPUTY STATE APPELLATE PUBLIC DEFENDER

at the following email address: [briefs@sapd.state.id.us](mailto:briefs@sapd.state.id.us).

/s/ Jeff Nye  
JEFF NYE  
Deputy Attorney General

JN/dd