

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

STATE OF IDAHO, )  
 ) No. 46171  
 Plaintiff-Appellant, )  
 ) Ada County Case No.  
 v. ) CR01-2017-7609  
 )  
 AARON LANTIS, )  
 )  
 Defendant-Respondent. )  
 \_\_\_\_\_ )

\_\_\_\_\_  
**BRIEF OF APPELLANT**  
\_\_\_\_\_

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

\_\_\_\_\_  
**HONORABLE GERALD F. SCHROEDER**  
**District Judge**  
\_\_\_\_\_

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## STATEMENT OF THE CASE

### Nature Of The Case

The state appeals from the district court's intermediate appellate decision reversing the magistrate's denial of Aaron Eugene Lantis's motion for acquittal.

### Statement Of The Facts And Course Of The Proceedings

The state charged Lantis with one count of disturbing the peace of H.H. "by offensive and/or threatening conduct, by sending sexually suggestive pictures of [H.H.] to her employer(s)." (R., pp. 8-9.) The charge was amended to disturbing the peace "by offensive conduct by sending an offensive email and/or pictures to [H.H.]'s employer." (R., pp. 28-29.) The matter proceeded to trial, where a jury found Lantis guilty. (R., pp. 42, 44-49.)

Lantis filed a motion for judgment of acquittal, contending that the state presented insufficient evidence of an act falling within the scope of the disturbing the peace statute. (R., pp. 76-88.) The state responded that the evidence showed that Lantis maliciously sent sexually compromising photographs of H.H. to her employers in an effort to get her fired, which disturbed H.H.'s peace. (R., pp. 107-17.) The magistrate denied the motion. (R., p. 126.)

The magistrate entered judgment and Lantis appealed to the district court. (R., pp. 127, 136-37.) The district court reversed, concluding that Lantis's conduct, "however reprehensible it is, does not constitute a violation of the statute." (R., pp. 219-27.) The state filed a timely notice of appeal from the district court's opinion. (R., pp. 233-35.)

## ISSUE

Did the district court err on appeal from the magistrate division by concluding that Lantis's action of sending compromising pictures of H.H. to H.H.'s employer in an effort to humiliate her and get her terminated from employment did not constitute disturbing the peace of H.H.?

## ARGUMENT

### The District Court Erred By Concluding That Lantis's Actions Did Not Constitute Disturbing The Peace Of H.H.

#### A. Introduction

As stated by the district court, the evidence showed that Lantis and H.H. were in a romantic relationship. (R., p. 222.) During the course of that relationship H.H. sent Lantis “‘sexually provocative’ photographs she had taken of herself.” (R., pp. 222-23.) “After their relationship ended, the appellant emailed four of these photos to the victim’s workplace, including to her supervisor and members of the company’s board of directors, in an unsuccessful effort to have her fired from her job. The victim testified that the appellant’s conduct ‘humiliated’ and ‘annoyed’ her.” (R., p. 223 (citations omitted).)

The district court concluded that the disturbing the peace statute prohibits only conduct that disturbs “the exterior or sensory peace of a neighborhood, family, or person,” and does not “prohibit offending someone’s internal sensibilities.” (R., p. 223 (internal quotation marks omitted).) It vacated Lantis’s conviction and ordered dismissal of the charge. (R., p. 226.)

In making its ruling, the district court did not analyze the plain language of the statute. (R., pp. 219-26.) In failing to do so, it erred. Moreover, application of the correct legal standards of statutory interpretation leads to the opposite result.

#### B. Standard Of Review

“We exercise free review over statutory interpretation because it is a question of law.” State v. Owens, 158 Idaho 1, 3, 343 P.3d 30, 32 (2015). On review of a decision rendered by a district court in its intermediate appellate capacity, the reviewing court

“directly review[s] the district court’s decision to determine whether it correctly decided the issues presented to it on appeal.” Borley v. Smith, 149 Idaho 171, 176, 233 P.3d 102, 107 (2010); see also Losser v. Bradstreet, 145 Idaho 670, 183 P.3d 758 (2008).

C. The District Court Erroneously Failed To Consider The Plain Language Of The Disturbing The Peace Statute

Statutory interpretation “must begin with the literal words of the statute; those words must be given their plain, usual, and ordinary meaning; and the statute must be construed as a whole. If the statute is not ambiguous, this Court does not construe it, but simply follows the law as written.” Verska v. Saint Alphonsus Reg’l Med. Ctr., 151 Idaho 889, 893, 265 P.3d 502, 506 (2011) (quoting State v. Schwartz, 139 Idaho 360, 362, 79 P.3d 719, 721 (2003) (citations omitted)). This Court has “consistently held that where statutory language is unambiguous, legislative history and other extrinsic evidence should not be consulted for the purpose of altering the clearly expressed intent of the legislature.” Id. (quoting City of Sun Valley v. Sun Valley Co., 123 Idaho 665, 667, 851 P.2d 961, 963 (1993)). Moreover, per Verska, this plain meaning controls even if this Court concludes it is patently absurd or would produce absurd results if construed as written. 151 Idaho at 896, 265 P.3d at 509. Finally, a “statute is not ambiguous merely because the parties present differing interpretations.” BHC Intermountain Hosp., Inc. v. Ada Cty., 150 Idaho 93, 96, 244 P.3d 237, 240 (2010).

The disturbing the peace statute provides:

Every person who maliciously and willfully disturbs the peace or quiet of any neighborhood, family or person, by loud or unusual noise, or by tumultuous or offensive conduct, or by threatening, traducing, quarreling, challenging to fight or fighting, or fires any gun or pistol, or uses any vulgar, profane or indecent language within the presence or hearing of children, in a loud and boisterous manner, is guilty of a misdemeanor.

I.C. § 18-6409(1). Because much of the language is disjunctive, the portion of the statute relevant to this appeal reads: “Every person who maliciously and willfully disturbs the peace ... of any ... person, by ... offensive conduct ... is guilty of a misdemeanor.” I.C. § 18-6409(1). The plain, usual, and ordinary meaning of the word “peace” includes “freedom from disquieting or oppressive thoughts or emotions” and “harmony in personal relations.” (Merriam-Webster online dictionary, <https://www.merriam-webster.com/dictionary/peace>, last visited 12/6/18.) “Offensive” includes “giving painful or unpleasant sensations” or “causing displeasure or resentment.” (Merriam-Webster online dictionary, <https://www.merriam-webster.com/dictionary/offensive>, last visited 12/6/18.) Thus, every person who maliciously and willfully disturbs another’s freedom from oppressive thoughts or emotions or harmony in personal relations, by conduct intended to cause unpleasant or painful sensations, displeasure or resentment, is guilty of disturbing the peace. The plain language of the statute does not limit disturbing the peace to “the exterior or sensory peace” of a person (R., p. 223), and the district court erred by engrafting such a limitation.

The district court concluded that grafting an “exterior or sensory” limitation to the language of the statute was called for by “the related terms of the statute requiring that the disturbing the peace conduct include loud or unusual noise, gun fire, challenging someone to a fight, loudness or boisterousness, or tumultuous conduct.” (R., p. 223.) It also looked to the section’s placement in the overall Idaho Code. (R., pp. 223-24.) This analysis is inconsistent with the standard that gives words their ordinary meaning. Because the district court employed standards of statutory construction instead of the plain meaning of the



words of the statute, it erred. This Court should employ the plain meaning of the words of the statute and reverse.

Even if the district court were correct to resort to rules of statutory interpretation, rather than the plain meaning of the words the legislature used, its analysis does not support its conclusion. First, the context of the words in the statute does not limit their meaning to “external” peace as opposed to “internal” peace. The Idaho Supreme Court has interpreted the disturbing the peace statute as follows:

A violation of the statute can be committed as follows:

Every person who maliciously and wilfully [1] disturbs the peace or quiet of any neighborhood, family or person, [a] by loud or unusual noise, or [b] by tumultuous or offensive conduct, or [c] by threatening, traducing, quarreling, challenging to fight or fighting, or [2] fires any gun or pistol, or [3] uses any vulgar, profane or indecent language within the presence or hearing of children, in a loud and boisterous manner, is guilty of a misdemeanor.

State v. Poe, 139 Idaho 885, 894, 88 P.3d 704, 713 (2004). The district court correctly concluded that some language in this statute could only apply to disturbing “the exterior or sensory peace” of a person (R., p. 223), but clearly not all of it.

First, the relevant subsection is to disturb the “peace **or** quiet” of a person. I.C. § 18-6409(1) (emphasis added). Thus, “peace” and “quiet” must be given independent meanings. State v. Yzaguirre, 144 Idaho 471, 475, 163 P.3d 1183, 1187 (2007) (“In determining its ordinary meaning effect must be given to all the words of the statute if possible, so that none will be void, superfluous, or redundant.” (internal quotations omitted).)

More importantly, committing the crime by “threatening” or “trading” are specifically aimed at the person’s “‘internal’ sensibilities.” (R., p. 223.) It is completely

incongruous to say that Lantis could have committed the crime by making false claims about H.H.'s sexuality to her employer in an effort to get her fired (trading) but cannot commit the crime by sending sexually explicit photographs of her to her employer in an effort to get her fired. The district court erred by inserting a requirement that disturbing the peace of a person can only be accomplished by disturbing the "exterior or sensory" peace of a person which is not in the plain language of the statute.

Equally misplaced is the district court's analysis with the disturbing the peace statute's placement in the same chapter as statutes on riot, rout, unlawful assembly, and prize fighting. (R., p. 223.) Because the plain meaning includes disturbances by causing oppressive thoughts and emotions or harm to relationships, this form of statutory interpretation should not have been considered.

Even if considering the chapter placement were proper, it does little, if anything, to assist in discerning legislative intent. Simply stated, the other definitions of crimes in the chapter do no limit disturbing the peace to disturbances of "exterior" peace. "Riot" is defined as:

Any action, use of force or violence, or threat thereof, disturbing the public peace, or any threat to use such force or violence, if accompanied by immediate power of execution, by two (2) or more persons acting together, and without authority of law, which results in:

- (a) physical injury to any person; or
- (b) damage or destruction to public or private property; or
- (c) a disturbance of the public peace ....

I.C. § 18-6401. "Unlawful assembly" is two or more people gathered "to do an unlawful act" (but not accomplishing the act) or gathered to "do a lawful act in a violent, boisterous or tumultuous manner." I.C. § 18-6404. "Assembly to disturb peace" is two or more persons assembled "for the purpose of disturbing the public peace, or committing any

unlawful act,” who do not disburse when told to. I.C. § 18-6410. There is no crime of “riot” or “prize fighting” currently in the chapter. Although the crime of “riot” cannot be committed without a breach of the “exterior or sensory” peace, neither an unlawful assembly “to do an unlawful act” nor a refusal to disburse an assembly created to commit “any unlawful act” involves any breach of the “exterior or sensory” peace of a person. Not only is the district court’s distinction between “exterior” and “internal” peace not found in the statute, it is not found in the chapter.

Finally, the district court relied on State v. Pierce, 159 Idaho 661, 365 P.3d 417 (Ct. App. 2016), for the proposition that “[t]he Idaho Court of Appeals held that the state failed to present evidence supporting a conviction for disturbing the peace for conduct that was clearly offensive but outside the statutory definition of disturbing the peace.” (R., pp. 224-25.) This logic is circular. The state has never argued that all offensive conduct constitutes disturbing the peace.

A closer reading of Pierce shows no support for the district court’s analysis. Pierce was convicted of violating a protection order. Pierce, 159 Idaho at 662, 365 P.3d at 418. The order stated that Pierce was not to “disturb the peace” of his ex-wife and her minor children. Id. Pierce terminated electrical power service to the house, which he owned and in which the ex-wife lived. Id. The jury convicted and the district court vacated the judgment “on the grounds that the state failed to provide evidence at trial that Pierce’s termination of the electrical service constituted disturbing the peace,” using I.C. § 18-6409(1) as the definition of disturbing the peace. Id. The state argued “the district court erred in vacating Pierce’s judgment of conviction because the state was not required to prove elements of a crime it did not charge.” Id. at 663, 365 P.3d at 419. The state did not

argue that that the evidence showed a violation of I.C. § 18-6409(1). Id. “The issue on appeal is whether the district court erred in interpreting the phrase ‘disturb the peace,’ from the protection order and criminal complaint, as specific acts enumerated in I.C. § 18–6409 or whether the phrase, in the context of the protection order, must be interpreted in a general, common language manner.” Id. Concluding that the phrase “disturbing the peace” referenced the definition of that phrase in I.C. § 18–6409, the court of appeals affirmed the district court. Id. at 663-64, 365 P.3d at 419-20. This closer reading shows that the only issue raised, and addressed, in the Pierce opinion was whether the phrase “disturb the peace” in the protection order incorporated the statutory definition of that phrase. There was no argument or decision that Pierce’s act did not violate I.C. § 18–6409.

Even if the opinion could be read to mean that canceling electrical service to one’s house in which one’s ex-wife lives is not disturbing the peace, such provides little, if any, support for the district court’s analysis. Nothing in Pierce says, or even hints, that the district court’s “exterior”/”internal” distinction is the proper interpretation of the disturbing the peace statute. As noted above, a person’s peace includes “freedom from disquieting or oppressive thoughts or emotions” and “harmony in personal relations.” It is unclear how electrical power is necessary for such freedom and harmony. On the other hand, trying to get H.H. fired by sending her employers sexually graphic pictures of her certainly deprived her of freedom from disquieting or oppressive thoughts or emotions (H.H. testified she was “humiliated” and “annoyed” (R., p. 223)) and disrupted harmony in her personal relations (Lantis was trying to disrupt H.H.’s employment relationship (R., p. 223)).

The district court’s “exterior”/”internal” dichotomy is not supported by the plain language of the statute, the placement of the chapter in the Idaho Code, or the Pierce

decision. Lantis disturbed H.H.'s peace by humiliating her and attempting to get her fired by sending sexually explicit photos of her to her employers and co-workers.

CONCLUSION

The state respectfully requests this Court to reverse the district court's appellate decision reversing Lantis's conviction for disturbing the peace.

DATED this 18th day of December, 2018.

/s/ Kenneth K. Jorgensen  
KENNETH K. JORGENSEN  
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 18th day of December, 2018, served a true and correct copy of the foregoing BRIEF OF APPELLANT to the attorney listed below by means of iCourt File and Serve:

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KKJ/dd