

SUPREME COURT OF IDAHO

State v. Alwin

426 P.3d 1260 (Idaho 2018) · No. 45743 · Decided September 21, 2018

SUMMARY

The Idaho Supreme Court affirmed Jeffrey Lynn Alwin’s felony-eluding conviction and the denial of his motion for a new trial. The court held that the booking photograph admitted at trial lacked typical mugshot indicia and therefore was not evidence subject to Idaho Rule of Evidence 404(b). The court also concluded that prosecutorial misconduct occurred during closing argument but did not rise to the level of fundamental error.

CASE DETAILS

COURT	Supreme Court of Idaho
WRITING FOR THE COURT	Burdick, Chief Justice; Horton, Justice; Brody, Justice; Bevan, Justice; Stegner, Justice
JURISDICTION	Idaho
DECIDED	September 21, 2018
DOCKET	45743
DISPOSITION	affirmed
PROCEDURAL POSTURE	The State petitioned the Idaho Supreme Court for review after the Idaho Court of Appeals reversed Alwin's felony-eluding conviction and remanded for further proceedings. The Supreme Court reviewed the district court's denial of Alwin's motion for a new trial and his unobjected-to prosecutorial-misconduct claims.
STANDARD OF REVIEW	The denial of a motion for a new trial and the admissibility of evidence under I.R.E. 404(b) are reviewed for abuse of discretion. Unobjected-to prosecutorial misconduct is reviewed for fundamental error, requiring an unwaived constitutional-right violation, an error that is clear or obvious from the record, and prejudice affecting substantial rights.
PRECEDENTIAL VALUE	Published Idaho Supreme Court opinion; precedential.
PARTIES	Jeffrey Lynn Alwin v. State of Idaho

TOPICS

evidence

criminal procedure

prosecutorial misconduct

appellate procedure

standard of review

PRACTICE AREAS

Criminal law

Criminal procedure

Evidence

Appellate procedure

QUESTIONS PRESENTED

1. Whether the district court abused its discretion by denying Alwin's motion for a new trial based on admission of the booking photograph under I.R.E. 404(b).
2. Whether the prosecutor's unobjected-to closing-argument comments constituted prosecutorial misconduct amounting to fundamental error.

HOLDINGS

1. The photograph was not I.R.E. 404(b) evidence because it lacked the typical indicia of a mugshot, including a side-profile image, height lines, police-department references, and jail identification numbers. It was admissible for identification purposes subject to ordinary relevance and prejudice analysis.
2. The district court properly denied Alwin's motion for a new trial because admission of the photograph was not erroneous and the verdict was not contrary to law or evidence.
3. The prosecutor did not commit misconduct by commenting on Officer Cohen's credibility because defense counsel had attacked the witness's credibility and the comments were connected to evidence in the record.
4. The prosecutor's comments about the jury's ability to identify Alwin and rejection of the alternative-driver theory did not constitute prosecutorial misconduct because they were tied to the evidence and invited the jury to assess competing credibility claims.
5. The prosecutor committed misconduct by expressing a personal opinion that he disagreed with the expert's testimony and by asserting an unsupported proposition about people becoming hyperfocused under stress, but the misconduct did not rise to the level of fundamental error.

KEY QUOTATIONS

“Thus, mugshots that have been trimmed to eliminate reference to prior criminal behavior, and therefore do not constitute I.R.E. 404(b) evidence, will be admitted so long as the mugshot is relevant and the mugshot’s probative value outweighs prejudice to the defendant.” (at 6)

“The evidence you are to consider consists of, one, sworn testimony of witnesses; two, exhibits which have been admitted into evidence; and three, any facts to which the parties have stipulated.” (at 15)

FACTUAL BACKGROUND

During a traffic stop, Officer Cody Cohen observed the driver of a Mercedes-Benz flee after responding incoherently and reaching toward the vehicle's glove box. After obtaining the vehicle's license-plate information, Cohen accessed a photograph of Alwin and concluded that it matched the driver he had stopped. At trial, the

State introduced the photograph, which depicted Alwin standing in front of a blank wall wearing yellow jail clothing, to support Cohen's identification. Alwin also challenged several statements made by the prosecutor during closing argument, including comments about Cohen's credibility and the reliability of the identification.

PROCEDURAL HISTORY

A jury convicted Alwin of felony eluding a peace officer in the Kootenai County District Court. The district court admitted a booking photograph over an Idaho Rule of Evidence 404(b) objection and denied Alwin's motion for a new trial. The Idaho Court of Appeals reversed, and the Idaho Supreme Court granted the State's timely petition for review and affirmed the district court's judgment.

DISPOSITION

affirmed

CASES CITED

- State v. Lankford, 162 Idaho 477, 399 P.3d 804 (2017)
- State v. Stevens, 146 Idaho 139, 191 P.3d 217 (2008)
- State v. Rawlings, 159 Idaho 498, 363 P.3d 339 (2015)
- State v. Pepcorn, 152 Idaho 678, 273 P.3d 1271 (2012)
- Reed v. Reed, 137 Idaho 53, 44 P.3d 1108 (2002)
- State v. Cunningham, 97 Idaho 650, 551 P.2d 605 (1976)
- Barnes v. United States, 365 F.2d 509 (D.C. Cir. 1966)
- Eberhardt v. Bordenkircher, 605 F.2d 275 (6th Cir. 1979)
- United States v. McCoy, 848 F.2d 743 (6th Cir. 1988)
- State v. Carter, 103 Idaho 917, 655 P.2d 434 (1981)
- State v. Kleier, 69 Idaho 278, 206 P.2d 513 (1949)
- United States v. Johnson, 495 F.2d 378 (4th Cir. 1974)
- State v. Scott, 604 P.2d 943 (Wash. 1980)
- State v. McCutcheon, 781 P.2d 31 (Ariz. 1989)
- United States v. George, 160 F. App'x 450 (6th Cir. 2005)
- State v. Cantu, 129 Idaho 673, 931 P.2d 1191 (1997)
- State v. Adamcik, 152 Idaho 445, 272 P.3d 417 (2012)
- State v. Carson, 151 Idaho 713, 264 P.3d 54 (2011)
- Darden v. Wainwright, 477 U.S. 168 (1986)
- State v. Christiansen, 144 Idaho 463, 163 P.3d 1175 (2007)
- State v. Irwin, 9 Idaho 35, 71 P. 608 (1903)
- State v. Field, 144 Idaho 559, 165 P.3d 273 (2007)
- United States v. Necoechea, 986 F.2d 1273 (9th Cir. 1993)

- State v. Montgomery, 163 Idaho 40, 408 P.3d 38 (2017)
- State v. Garcia, 100 Idaho 108, 594 P.2d 146 (1979)

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