

SUPREME COURT OF IDAHO

Smith v. Washington County Idaho, 150 Idaho 388

247 P.3d 615 (2010) · No. No. 35851 · Decided December 15, 2010

SUMMARY

The Supreme Court of Idaho affirmed the denial of attorney fees and costs to David Smith after he successfully obtained a residential building permit from Washington County through a petition for judicial review. The court held that Idaho Code section 12-117 did not authorize attorney fees in the petition for review, and that fees under sections 12-120(3) and 12-121 were unavailable. The court also held that Smith was not entitled to costs under Idaho Rule of Civil Procedure 54 because the proceeding was not a civil action.

CASE DETAILS

COURT	Supreme Court of Idaho
WRITING FOR THE COURT	W. Jones, Justice; Eismann, Chief Justice; Burdick, Justice; J. Jones, Justice; Horton, Justice
JURISDICTION	Idaho
DECIDED	December 15, 2010
DOCKET	No. 35851
DISPOSITION	affirmed
PROCEDURAL POSTURE	Smith appealed the district court's denial of attorney fees and costs after the court reversed Washington County's denial of his building permit and ordered the County to issue the permit.
STANDARD OF REVIEW	The interpretation of a statute and the meaning and applicability of an attorney-fee statute are reviewed freely as questions of law.
PRECEDENTIAL VALUE	Published Idaho Supreme Court opinion
PARTIES	David D. Smith v. Washington County, Idaho, Rich Michael, Commissioner, Roy Mink, Commissioner, Mike Hopkins, Commissioner

TOPICS

judicial review of agency action

administrative law

statutory interpretation

attorney fees

costs

PRACTICE AREAS

administrative law

appellate procedure

municipal law

attorney fees

costs

QUESTIONS PRESENTED

1. Whether attorney fees were available under Idaho Code section 12-117 for a petition for judicial review of a county decision.
2. Whether attorney fees were available under Idaho Code sections 12-120(3) or 12-121.
3. Whether Smith was entitled to costs under Idaho Rule of Civil Procedure 54(d)(1).
4. Whether Smith was entitled to attorney fees on appeal.

HOLDINGS

1. Idaho Code section 12-117, as amended in 2010, does not authorize a court to award attorney fees in a petition for judicial review of an administrative decision because such a proceeding is neither an administrative proceeding before an agency nor a civil judicial proceeding commenced by a complaint.
2. Smith was not entitled to attorney fees under sections 12-120(3) or 12-121 because section 12-117 is the exclusive basis for awarding attorney fees against a county in this type of proceeding, and Smith waived those claims at oral argument.
3. Smith was not entitled to costs under Rule 54(d)(1) because the petition for judicial review was not a civil action governed by that rule.

KEY QUOTATIONS

“Because administrative proceedings and judicial proceedings are wholly separate types of legal actions.”
(618)

“By separating “administrative proceedings” from “civil judicial proceedings,” the Legislature signaled that the courts should no longer be able to award fees in administrative judicial proceedings such as this one.”
(619)

FACTUAL BACKGROUND

David Smith purchased an eighty-acre parcel near Midvale, Idaho, and sought a residential building permit. The County's Planning and Zoning Commission and Board of Commissioners denied the permit because they believed his driveway was too narrow for fire equipment under the Washington County Zoning Ordinance and International Fire Code. After the district court reversed the County's decision and ordered the permit issued, Smith sought attorney fees and costs incurred in obtaining that relief.

PROCEDURAL HISTORY

The County's Planning and Zoning Commission and Board of Commissioners denied Smith's residential building permit based on alleged fire-safety violations involving his driveway. Smith sought mandamus relief, which the district court treated as a petition for judicial review; the court reversed the County and ordered

issuance of the permit. The district court denied Smith's requests for attorney fees under Idaho Code sections 12-117, 12-120(3), and 12-121, and did not award requested costs. The Idaho Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Doe v. Boy Scouts of America, 148 Idaho 427, 430, 224 P.3d 494, 497 (2009)
- J.R. Simplot Co. v. Western Heritage Insurance Co., 132 Idaho 582, 584, 977 P.2d 196, 198 (1999)
- Stewart v. Department of Health & Welfare, 115 Idaho 820, 822, 771 P.2d 41, 43 (1989)
- Rural Kootenai Organization, Inc. v. Board of Commissioners, 133 Idaho 833, 845-46, 993 P.2d 596, 608-09 (1999)
- Rammell v. Idaho State Department of Agriculture, 147 Idaho 415, 422-23, 210 P.3d 523, 530-31 (2009)
- Sanchez v. State, 143 Idaho 239, 243, 141 P.3d 1108, 1112 (2006)
- Neighbors for Responsible Growth v. Kootenai County, 147 Idaho 173, 176 n. 1, 207 P.3d 149, 152 n. 1 (2009)
- Lake CDA Investments, LLC v. Idaho Department of Lands, 149 Idaho 274, 285 n. 6, 233 P.3d 721, 732 n. 6 (2010)
- State v. Maybee, 148 Idaho 520, 529, 224 P.3d 1109, 1118 (2010)
- Potlatch Education Ass'n v. Potlatch School District, 148 Idaho 630, 635, 226 P.3d 1277, 1282 (2010)
- State v. Hagerman Water Right Owners, Inc., 130 Idaho 718, 723, 947 P.2d 391, 396 (1997)
- Johnson v. Blaine County, 146 Idaho 916, 929, 204 P.3d 1127, 1140 (2009)
- L & W Supply Corp. v. Chartrand Family Trust, 136 Idaho 738, 745-46, 40 P.3d 96, 103-04 (2002)
- Caldwell v. Idaho Youth Ranch, Inc., 132 Idaho 120, 127, 968 P.2d 215, 222 (1998)
- Zimmerman v. Volkswagen of America, Inc., 128 Idaho 851, 857, 920 P.2d 67, 73 (1996)