

SUPREME COURT OF IDAHO

Jamee Lee Wade v. Bryan F. Taylor

156 Idaho 91 (2014) · No. 40142 · Decided March 18, 2014

SUMMARY

The Idaho Supreme Court reviewed a public-records dispute involving Jamee Lee Wade’s request for investigatory records held by the Canyon County Prosecuting Attorney’s Office. The court held that records under active prosecutorial review are active investigatory records, that the withholding agency must demonstrate a reasonable probability of a statutory harm from disclosure, and that the relevant time for evaluating the exemption is when disclosure was denied. The court vacated the district court’s judgment and remanded for further proceedings, including separation of exempt and nonexempt records.

CASE DETAILS

COURT	Supreme Court of Idaho
WRITING FOR THE COURT	Horton; Burdick; Eismann; Jones; Schroeder
JURISDICTION	Idaho
DECIDED	March 18, 2014
DOCKET	40142
DISPOSITION	vacated
PROCEDURAL POSTURE	Appeal by the Canyon County Prosecuting Attorney's Office from a district court judgment ordering disclosure of investigatory records under the Idaho Public Records Act, with disclosure limited to Wade and his counsel.
STANDARD OF REVIEW	Factual findings are reviewed for clear error and will not be disturbed when supported by substantial and competent evidence; statutory interpretation and other questions of law are reviewed freely.
PRECEDENTIAL VALUE	published Idaho Supreme Court opinion
PARTIES	Bryan F. Taylor, County Prosecuting Attorney, Canyon County Prosecuting Attorney's Office v. Jamee Lee Wade

TOPICS

administrative law

judicial review of agency action

statutory interpretation

appellate procedure

standard of review

PRACTICE AREAS

administrative law

public records

statutory interpretation

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether investigatory records transferred to and under ongoing good-faith review by a prosecuting attorney are active investigatory records governed by Idaho Code section 9-335(1), rather than inactive records governed by section 9-335(3).
2. What burden the withholding agency must satisfy to establish that disclosure would produce one of the harms identified in Idaho Code section 9-335(1)(a)-(f).
3. Whether the relevant exemption inquiry is based on the circumstances existing when the agency denied the records request or when the district court later heard the petition.
4. Whether the district court must separate exempt from nonexempt portions of requested records.
5. Whether disclosure of nonexempt public records may be limited to particular persons or purposes based on the requester's motivation.
6. Whether the appeal was moot after Wade obtained the records through discovery in a separate federal action.
7. Whether the district court had authority during the appeal to amend the judgment concerning attorney fees.

HOLDINGS

1. Investigatory records under ongoing, good-faith prosecutorial review are active investigatory records governed by Idaho Code section 9-335(1), even when the underlying police investigation has been completed.
2. The agency withholding records under Idaho Code section 9-335(1) bears the burden to demonstrate a reasonable probability that disclosure would result in at least one harm listed in section 9-335(1)(a)-(f).
3. The relevant time for determining whether refusal to disclose was justified is the time of the agency's denial of the public-records request, not the time of the district court hearing.
4. When a request includes both exempt and nonexempt records or material, the agency and the district court must separate the exempt material and make the nonexempt material available.
5. Whether a record is exempt is an objective inquiry that does not depend on the requester's motivation, and a court may not restrict use of nonexempt records to particular persons or purposes.
6. The appeal was not moot because the issue of attorney fees remained unresolved even though Wade obtained identical records through discovery in a separate federal action.

7. Idaho Code section 9-344(2) is the exclusive statutory basis for attorney fees in an action under the Idaho Public Records Act, and Wade was not entitled to fees on this appeal because he did not prevail.

KEY QUOTATIONS

“Therefore, we hold that investigatory records under active prosecutorial review are not inactive investigatory records, but are active investigatory records, requiring the application of Idaho Code section 9-335(1).” (99)

“Rather, we hold that the withholding agency has the burden to demonstrate a reasonable probability that disclosure of the requested records would result in a harm listed in Idaho Code section 9-335(1)(a)–(f).” (100)

“Finally, we note that the inquiry should focus on whether the withholding agency has shown a reasonable probability of a harm identified in Idaho Code section 9-335(1)(a)–(f) at the time of the denial of the public records request rather than at the time of the hearing.” (100)

“Thus, whether a public record is subject to disclosure or exempt from disclosure is an objective analysis, both for the custodian and for the district court.” (102)

FACTUAL BACKGROUND

Wade was shot twice by a Fruitland police officer after an altercation. He sought investigatory records concerning the shooting to pursue a potential Idaho Tort Claims Act claim. The records were under review by the Canyon County Prosecuting Attorney's Office to determine whether criminal charges should be brought against Wade or the officer and included police reports, witness interviews, recordings, photographs, video, medical records, and personal identifying information.

PROCEDURAL HISTORY

Wade requested investigatory records concerning a police shooting from the Idaho State Police, the Payette County Prosecutor, and the Canyon County Prosecuting Attorney's Office. After the requests were denied, Wade petitioned the Canyon County district court for access. Following an in camera review, the district court ordered disclosure, later limiting disclosure to Wade and his counsel and reserving attorney-fee issues. The Canyon County Prosecuting Attorney's Office appealed. During the appeal, Wade obtained identical records through discovery in a federal civil-rights action, but the Idaho Supreme Court held the appeal was not moot because attorney-fee issues remained.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The district court must reconsider the public-records request under Idaho Code section 9-335(1), determine whether the withholding agency demonstrated a reasonable probability of a statutory harm as of the date of refusal, separate exempt from nonexempt material, and either order disclosure of nonexempt records or uphold

the exemption and return the records. The court may not limit use of nonexempt records based on Wade's purpose or identity.

CASES CITED

- Bolger v. Lance, 137 Idaho 792, 53 P.3d 1211 (2002)
- Ward v. Portneuf Medical Center, Inc., 150 Idaho 501, 248 P.3d 1236 (2011)
- Arambarri v. Armstrong, 152 Idaho 734, 274 P.3d 1249 (2012)
- Ameritel Inns, Inc. v. Greater Boise Auditorium District, 141 Idaho 849, 119 P.3d 624 (2005)
- Henry v. Taylor, 152 Idaho 155, 267 P.3d 1270 (2012)
- Federated Publications, Inc. v. Boise City, 128 Idaho 459, 915 P.2d 21 (1996)
- Cowles Publishing Co. v. Kootenai County Board of County Commissioners, 144 Idaho 259, 159 P.3d 896 (2007)
- N.L.R.B. v. Robbins Tire & Rubber Co., 437 U.S. 214 (1978)
- Idaho Conservation League, Inc. v. Idaho State Department of Agriculture, 143 Idaho 366, 146 P.3d 632 (2006)
- City of Pocatello v. State, 152 Idaho 830, 275 P.3d 845 (2012)