

SUPREME COURT OF IDAHO

State of Idaho v. David Allen Osborn, 104 Idaho 809

663 P.2d 1111 (1983) · No. No. 14333 · Decided May 26, 1983

SUMMARY

The Idaho Supreme Court affirmed David Allen Osborn’s fixed life sentence for first-degree murder following resentencing after the court had previously vacated his death sentence. The court held that the trial court did not abuse its sentencing discretion, although it should have made written findings regarding mitigating factors under Idaho Code § 19-2515(d). The court also held that written reasons for imposing a particular sentence were encouraged but not mandatory, overruling State v. Tisdale to the extent it was inconsistent.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                             |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Idaho                                                                                                                                                                                                                                                                      |
| WRITING FOR THE COURT | Huntley, Justice; Bakes, Justice; Bistline, Justice; Donaldson, Chief Justice; Shepard, Justice                                                                                                                                                                                             |
| JURISDICTION          | Idaho                                                                                                                                                                                                                                                                                       |
| DECIDED               | May 26, 1983                                                                                                                                                                                                                                                                                |
| DOCKET                | No. 14333                                                                                                                                                                                                                                                                                   |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                    |
| PROCEDURAL POSTURE    | Appeal from resentencing following the Idaho Supreme Court's reversal of Osborn's death sentence and remand for resentencing.                                                                                                                                                               |
| STANDARD OF REVIEW    | Sentencing is reviewed for abuse of discretion. The defendant bears the burden of showing abuse, and a sentence within statutory limits ordinarily will not be deemed an abuse, although the Supreme Court must examine the circumstances to determine whether the punishment is excessive. |
| PRECEDENTIAL VALUE    | Published Idaho Supreme Court opinion; binding precedent in Idaho subject to subsequent treatment.                                                                                                                                                                                          |
| PARTIES               | David Allen Osborn v. State of Idaho                                                                                                                                                                                                                                                        |

TOPICS

- sentencing
- standard of review
- appellate procedure
- criminal procedure

## PRACTICE AREAS

criminal law

sentencing

appellate review

## QUESTIONS PRESENTED

1. Whether the district court abused its discretion by imposing a fixed life sentence for first-degree murder.
2. Whether Idaho law required the district court to state in writing its reasons for imposing a particular sentence.
3. Whether the district court's failure to set forth in writing the mitigating factors it considered required reversal.

## HOLDINGS

1. The district court did not abuse its discretion by imposing a fixed life term because the sentence was within the statutory range for first-degree murder and the record did not show that the punishment was excessive.
2. A district court is not required to state in writing its reasons for imposing a particular sentence, although doing so is helpful and encouraged. *State v. Tisdale* is overruled to the extent it required such written reasons.
3. The district court failed to comply with I.C. § 19-2515(d) and the mandate in *Osborn I* by failing to set forth in writing the mitigating factors considered, but the error was not reversible because the court imposed a determinate life sentence rather than death and did not abuse its sentencing discretion.

## KEY QUOTATIONS

*“Reasonableness is a fundamental requirement in sentencing and this court must examine the circumstances of each case to determine whether the punishment imposed is excessive.”* (104 Idaho at 810)

*“Although the trial court should have set forth in writing the factors considered in mitigation in this case, in view of our holding that the trial court did not abuse its discretion in sentencing the defendant to a determinate life term and the fact that the death sentence was not imposed in this case, no reversible error occurred.”* (104 Idaho at 811)

## FACTUAL BACKGROUND

Christine Carl was found partially clothed near Pocatello on October 31, 1978, having suffered multiple gunshot wounds and extensive facial bruising. A revolver found at the house where Osborn was arrested could have been the murder weapon, and a witness connected Osborn to a similar revolver with a manually rotated cylinder. At resentencing, the district court found two aggravating circumstances beyond a reasonable doubt and a continuing-threat aggravator by a preponderance of the evidence, then imposed a fixed life term.

## PROCEDURAL HISTORY

In *Osborn I*, the Idaho Supreme Court reviewed Osborn's death sentence for first-degree murder and remanded for resentencing. On remand, the district court denied Osborn's request for a de novo resentencing hearing, relied

on the prior aggravation-and-mitigation record, and imposed a fixed life sentence. Osborn appealed, arguing that the sentence reflected an abuse of discretion and that the court failed to make adequate written findings regarding mitigating factors.

#### **DISPOSITION**

affirmed

#### **CASES CITED**

- State v. Osborn, 102 Idaho 405, 631 P.2d 187 (1981)
- State v. Olsen, 103 Idaho 278, 647 P.2d 734 (1982)
- State v. Delin, 102 Idaho 151, 627 P.2d 330 (1981)
- State v. Nice, 103 Idaho 89, 645 P.2d 323 (1982)
- State v. Dunn, 91 Idaho 870, 434 P.2d 88 (1967)
- State v. Tisdale, 103 Idaho 836, 654 P.2d 1389 (1982)