

SUPREME COURT OF THE STATE OF IDAHO

David Smith v. Washington County Idaho, and its Commissioners,
Rich Michael, Roy Mink, and Mike Hopkins

2010 Idaho Opinion No. 105 (Supreme Court of the State of Idaho 2010) · No. 35851 · Decided October 6, 2010

SUMMARY

The Idaho Supreme Court affirmed the district court’s denial of David Smith’s requests for attorney fees and costs after the court ordered Washington County to issue him a residential building permit. The court held that Idaho Code section 12-117 did not authorize an award of attorney fees in this petition for judicial review, and that 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 the State of Idaho
WRITING FOR THE COURT	W. Jones, Justice; Eismann, Chief Justice; Burdick, Justice; J. Jones, Justice; Horton, Justice
JURISDICTION	Idaho
DECIDED	October 6, 2010
DOCKET	35851
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the denial of attorney fees and costs after the district court treated Smith's mandamus application as a petition for judicial review, reversed Washington County's denial of a residential building permit, and ordered the County to issue the permit.
STANDARD OF REVIEW	Statutory interpretation and the meaning and applicability of an attorney-fee statute are questions of law reviewed freely.
PRECEDENTIAL VALUE	Published Idaho Supreme Court opinion; precedential unless later limited, overruled, or otherwise affected.
PARTIES	David D. Smith v. Washington County Idaho, Rich Michael, Roy Mink, Mike Hopkins

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QUESTIONS PRESENTED

1. Whether Smith was entitled to attorney fees under Idaho Code section 12-117 for the petition for judicial review of the County's permit decision.
2. Whether Smith was entitled to attorney fees 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 and costs 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 complaint.
2. Smith could not recover attorney fees under sections 12-120(3) or 12-121 because he expressly waived those claims, and section 12-117 is the exclusive means of awarding attorney fees against a county in this type of proceeding.
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

“By using the phrase “as the case may be,” the Legislature indicated that only the relevant adjudicative body—the agency in an administrative proceeding or the court in a judicial proceeding—may award the attorney fees.” (3)

“The Legislature therefore must also have intended to abrogate the part of Rammell that allowed courts to award fees in petitions for judicial review.” (4)

“Since this is not a civil action, Smith is not entitled to costs under I.R.C.P. 54(d)(1).” (6)

FACTUAL BACKGROUND

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

PROCEDURAL HISTORY

Smith applied for a residential building permit, which the County denied based on the asserted insufficiency of his driveway under fire-safety regulations. Smith sought mandamus relief, but the district court treated the filing as a petition for judicial review, reversed the County's decision, 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; at oral argument Smith waived his claims under sections 12-120(3) and 12-121.

DISPOSITION

affirmed

CASES CITED

- Doe v. Boy Scouts of America, 148 Idaho 427, 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, 233 P.3d 721, 732 n.6 (2010)
- State v. Maybee, 148 Idaho 520, 529, 224 P.3d 1109, 1118 (2010)
- Potlatch Education Association v. Potlatch School District, 148 Idaho 630, 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)

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