

IN THE SUPREME COURT OF THE STATE OF IDAHO

DALLEN WORTHINGTON and  
RACHEL WORTHINGTON,

Plaintiffs/Appellants,

vs

CARLENE CRAZY THUNDER,

Defendant/Respondent.

Supreme Court No.: 49976-2022  
District Court No.: CV06-21-1582

APPELLANT'S REPLY BRIEF

Appeal from the District Court of the Seventh Judicial District  
of the State of Idaho, in and for the County of Bingham

HONORABLE DARREN B. SIMPSON,  
District Judge, Presiding

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**TABLE OF CONTENTS**

TABLE OF AUTHORITIES ..... *ii*

STATEMENT OF THE CASE ..... 1

    a. Nature of the Case ..... 1

    b. Statement of the Facts and Course of Proceedings ..... 1

ISSUES PRESENTED ON APPEAL ..... 3

    I. Whether the District Court erred in holding Idaho Code §6-311A violates the Constitution of the State of Idaho.

    II. Whether the District Court erred in vacating the Magistrate’s order granting Plaintiff’s complaint for eviction for nonpayment of rent without a jury trial.

    III. Whether the District Court erred in finding there were issues of material factual dispute presented by Defendant in relation to non-payment of rent claim of the Plaintiffs.

STANDARD OF REVIEW ..... 3

ARGUMENT ..... 4

    A. The District Court erred in concluding that Idaho Code §6-311A violates Art. I, Sec. 7 of the Idaho Constitution.....4

    B. The District Court erred in vacating the Magistrate’s order granting Plaintiff’s complaint for eviction for nonpayment of rent without a jury trial.....5

    C. No Question of Material Fact was Presented by Defendant.....6

    D. Respondent is NOT entitled to an award of attorney fees on appeal.....6

CONCLUSION .....7

**TABLE OF AUTHORITIES**

Cases

*Stuart v. State*, 149 Idaho 35, 232 P.3d 813 (Idaho 2010).....3

*Bromund v. Bromund*, 167 Idaho 925, 477 P.3d 979 (2020) ..... 3

*Johnson v. Niichels*, 48 Idaho 654, 284 P. 840 (Idaho 1930).....5

*Pernell v. Southall Realty*, 416 U.S. 363, 94 S. Ct. 1723, 40 L.Ed 2d 198 (1974).....5

## STATEMENT OF THE CASE

### A. Nature of the Case

Plaintiffs/Appellants, Dallen and Rachel Worthington (“Appellants”) appeal the Memorandum Decision and Order on Appeal entered by the District Court, vacating the Magistrate Court’s decision and order entered in the underlying case.

### B. Statement of the Facts and Course of Proceedings

1. On September 16, 2021, Worthingtons gave Crazy Thunder a Notice Nonpayment of Rent. Crazy Thunder did not pay the past-due rent.
2. On October 12, 2021, Worthingtons filed a Complaint for Unlawful Detainer against their tenant, Crazy Thunder, pursuant to Idaho Code § 6-303, for non-payment of rent.
3. On October 21, 2021, Crazy Thunder filed a verified answer to the Worthingtons’ Complaint, along with a Motion to Dismiss the Complaint.
4. On October 22, 2021 Worthingtons gave Crazy Thunder a Three-Day Notice to Cure Default (pay) or Quit (vacate) the Premises. Crazy Thunder did not pay the past due rent.
5. On October 25, 2021, Magistrate Judge Scott Hansen heard argument on the various motions that were before the court.<sup>1</sup>
6. On October 26, 2021, Worthingtons filed an Amended Complaint for Unlawful Detainer, pursuant to Idaho Code § 6-303, for non-payment of rent.
7. On October 27, 2021, Crazy Thunder filed a Motion to Dismiss Amended Complaint.
8. On October 28, 2021, Crazy Thunder filed an Answer to Amended Complaint and Demand for Jury Trial.

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<sup>1</sup> See Clerk’s Record (“R.”) at 40-41

9. On November 1, 2021, Judge Hansen voluntarily recused himself and the case was assigned to Magistrate Judge Cleve Colson.
10. On November 8, 2021, Judge Colson heard argument and subsequently denied Crazy Thunder's Motion to Vacate Bench Trial and denied Crazy Thunder's Motion for Jury Trial and proceeded with the Bench Trial on the expedited proceedings.<sup>2</sup> Crazy Thunder refused attend the hearing/trial<sup>3</sup>, but was represented by her counsel, Karl Lewies. During the trial, Mr. Lewies indicated "[they] were not going to participate."<sup>4</sup> After the presentation of evidence, the Court found Crazy Thunder to be in unlawful possession of the property<sup>5</sup> and ordered her removal therefrom.<sup>6</sup>
11. On November 16, 2021, Crazy Thunder filed a Notice of Appeal to the District Court, considering the following questions:
  - a. Does Idaho Code § 6-311A violate Article I, Sec. 7 of the Idaho Constitution?
  - b. Did Judge Colson err in denying Crazy Thunder's jury demand?
  - c. Should Judge Colson's attorney fee award to the Worthingtons be vacated?
  - d. Is Crazy Thunder entitled to attorney fees and costs on appeal?
12. On June 22, 2022, District Court Judge Darren B. Simpson issued his Decision and Order on Appeal, holding that Idaho Code § 6-311A violates Art. I, Sec. 7 of the Idaho Constitution; that the Magistrate Court erred in denying Crazy Thunder's jury demand;

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<sup>2</sup> R. at 69-70.

<sup>3</sup> See Exhibits ("E.") at 52-54, transcript pages 26:24-25 and 28:10-14. The full transcript of the November 8, 2021, hearing/trial appears at pages 30 through 70 of the Exhibits.

<sup>4</sup> E. at 58, transcript pages 32:15-16; E. at 59, transcript pages 33:13-14 and; E. at 64, transcript pages 38:3-4.

<sup>5</sup> E. at 66, transcript pages 40:15-20.

<sup>6</sup> E. at 66, transcript pages 40:21-24.

vacating the award of attorney's fees in favor of Worthingtons and awarding attorney fees on appeal to Crazy Thunder.<sup>7</sup>

13. On August 3, 2022, Worthingtons filed a Notice of Appeal to this Court.

### **ISSUES PRESENTED ON APPEAL**

- I. Whether the District Court erred in holding Idaho Code §6-311A violates the Constitution of the State of Idaho.
- II. Whether the District Court erred in vacating the Magistrate's order granting Plaintiff's complaint for eviction for nonpayment of rent without a jury trial.
- III. Whether the District Court erred in finding there were issues of material factual dispute presented by Defendant in relation to non-payment of rent claim of the Plaintiffs.

### **STANDARD OF REVIEW**

"Both constitutional questions and questions of statutory interpretation are questions of law over which this Court exercises free review..." *Stuart v. State*, 149 Idaho 35, 232 P.3d 813 (Idaho 2010).

When reviewing the decision of a district court acting in its appellate capacity, the Idaho Supreme Court does not review the decision of the magistrate court. *Bromund v. Bromund*, 167 Idaho 925, 928, 477 P.3d 979, 982 (2020) (citing *Bailey v. Bailey*, 153 Idaho 526, 529, 284 P.3d 970, 973 (2012)). Rather,

this Court is "procedurally bound to affirm or reverse the decisions of the district court." .... However, in so doing, this Court reviews the record before the magistrate court "to determine whether there is substantial and competent evidence to support the magistrate's findings of fact and whether the magistrate's conclusions of law follow from those findings.".... If the magistrate court's findings are supported by substantial and competent

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<sup>7</sup> R. at 106, Decision and Order on Appeal

evidence “and the conclusions follow therefrom,” this Court will affirm the district court’s decision affirming the magistrate court “as a matter of procedure.”

*Bromund*, 167 Idaho at 928, 477 P.3d at 982 (internal citations omitted).

## ARGUMENT

A. The District Court erred in concluding that Idaho Code §6-311A violates Art. I, Sec. 7 of the Idaho Constitution.

Respondent alleges that Petitioner somehow waived their right to point out the fact that the Unlawful Detainer for non-payment of rent is one of equity.

Respondent seems to believe that this is an “issue” that was not previously raised on appeal. The identification of the type of case is not a new issue, it is THE issue at the heart of this matter and the crux of whether IC 6-311a is constitutional or unconstitutional. The issue is not new nor has it changed, i.e., is I.C. 6-311a unconstitutional? The District Court erred when it found the law was unconstitutional because the District Court failed to recognize the law as it pertains to actions at law and those at equity. Worthington’s appeal does not present a new issue, rather, it points out the error of the District Court when it violated the requirement of presumption in favor of the constitutionality of the challenged statute pursuant to this Court’s holding in *Am. Falls Reservoir Dist. No. 2*<sup>8</sup>.

Respondent’s brief fails to address the issue of no guarantee of a trial by jury when the sole issue is that of non-payment of rent. Appellant agrees with the idea that a trial by jury would be appropriate when the issue(s) presented are something more than non-payment of rent. That was not the case here.

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<sup>8</sup> *Am. Falls Reservoir Dist. No. 2 v. Idaho Dep’t of Water Res.*, 154 P.3d 433, 143 Idaho 862 (Idaho 2007)

Simply stated, this is a case where the landlord sought possession of the property, nothing more. That is equity. The Idaho Supreme Court has repeatedly said there is no guaranty to trial by jury in equity cases,

“This court, however, definitely ruled in the *Christensen* case that the above constitutional provisions [art. 5, sec. 1.; art. 1, sec. 7.] were not intended to extend the right of trial by jury to equity cases. Nor does the opinion in the *Christensen* case indicate that sec. 1, art. 5, was not fully considered in connection with the point here involved. This proposition has been adhered to in a number of later decisions (*Brady v. Yost*, 6 Idaho 273, 55 P. 542; *People v. Burnham*, 35 Idaho 522, 207 P. 589; *Shields v. Johnson*, 10 Idaho 476, 3 Ann. Cas. 245, 79 P. 391; *Rees v. Gorham*, supra; *State v. Kelley*, 39 Idaho 668, 229 P. 659) and it will not now be said by this court that the right to trial by jury is guaranteed in equity cases as well as law, but that defendant in an equity case is not entitled to a jury trial as a matter of right.<sup>9</sup>

Respondent’s cites *Pernell* as if it somehow applies to the facts as they have been presented in this case. In *Pernell* there was an issue of fact in that *Pernell* denied owing any rent<sup>10</sup>. In this case, there was no such assertion or denial made by Crazythunder.

It is clear that the District Court failed to recognize this as a case in equity and thus not a case that is guaranteed a right to a jury trial, and because the district Court failed to follow the requirement of presumption of constitutionality of the statute, this Court should reverse the decision of the District Court.

**B. The District Court erred in vacating the Magistrate’s order granting Plaintiff’s complaint for eviction for nonpayment of rent without a jury trial.**

As is outlined in Respondent’s brief, Crazythunder failed to participate in the unlawful detainer trial in any way. There was no defense presented and no challenge

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<sup>9</sup> *Johnson v. Niichels*, 48 Idaho 654, 284 P. 840 (Idaho 1930)

<sup>10</sup> *Pernell v. Southall Realty*, 416 U.S. 363, 94 S. Ct. 1723, 40 L.Ed 2d 198 (1974)



to the assertion that Crazythunder failed to pay rent. Without any evidence to the contrary, the Magistrate Court found in favor of the Landlord.

Respondent alleges that they presented questions of fact, but, again, none of those questions of fact involved payment of rent, which was the only fact at issue in the proceedings.

The District Court failed to recognize that the questions presented were not relevant to an Unlawful Detainer action that is solely for the non-payment of rent.

For these reasons, the holding of the District Court should be reversed.

C. No Question of Material Fact was Presented by Defendant.

I.C. 6-311a is simply about non-payment of rent. As is outlined in the record, Crazythunder never denied Appellant's assertion that rent was owed and never paid. As to the statute under which eviction was sought, Crazythunder failed to present any question as to the facts asserted.

D. Respondent is NOT entitled to an award of attorney fees on appeal.

The basis for the appeal in this matter is abundantly reasonable and based in facts and law as shown by Appellant's Brief. Appellant merely prays that the court review the record to determine whether the evidence of the constitutionality of I.C. 6-311a is present as the record supports and determine if the District Court's decision to ignore Idaho Law was error. Worthingtons have solely asked this Court to apply free review to the application of law to the facts of record in this case and their arguments concerning the application of law in this case are reasonable and supported by Idaho statutes, rules, and cases. Therefore, Crazythunder is not entitled to attorney fees on this appeal.

## CONCLUSION

In conclusion, this Court should reverse the decision of the District Court and award Attorney's fees to Worthingtons.

DATED this 17<sup>th</sup> day of April, 2023.

/s/ Jeromy W. Pharis  
Jeromy W. Pharis  
Attorney for Appellants/Plaintiffs