

Wayne gives a civics lesson while pleading not guilty

By Wayne Hoffman

It seems I offended a great number of people with last week's column regarding my speeding ticket that a quick follow-up appears appropriate.

First, as an update, I entered a plea of "not guilty" a few days ago. It seemed problematic for me to admit I violated Idaho Code 49-654(2)(E) for excessive speeding when that statute doesn't exist. So I didn't. Based on the comments, I know some people will be offended by my decision. Oh well.

We all learn in fourth grade Civics that our system of government is comprised of three branches: legislative, judicial and executive. The legislative branch writes the law. The judiciary adjudicates the law and the executive carries out the law. The legislative process involves lawmakers agreeing on public policy and asking the executive branch to consent to those policy proposals by signing their legislation into law.

For those who have never seen the legislative process in action, it is a bit more intricate than a chamber of lawmakers being told "raise your hand if you want speeding to be illegal." Laws are comprised of words. Words have meanings, and meanings have consequences. Accuracy and precision are important so people know whether their actions are legal or not. Because human beings tend to be imprecise, and words are open to interpretation, disagreements are often argued in front of judges and courts.

Here, the Legislature voted on a law that defines speeding, with specific words included. The Legislature didn't break speeding up into categories of greater than or less than 15 miles an hour over the speed limit. The court did that, putting it in the position of writing law and setting policy, which violates the fundamental principles of our system of government.

But that's not all. The Legislature decided that the court should be the sole decider when it comes to imposing penalties for infractions like the one that I received. The problem with that again goes back to fourth grade Civics. If I get a speeding ticket and the penalty appears too high or too low, I can petition my lawmakers to do something about it. But more likely, I'll see them in the grocery store, or the gas station, or at church. I'll be able to ask my very own lawmakers why they set the penalty as they did, and I'll be able to hold them accountable for that decision at the ballot box each two years.

The system in place for determining infractions in Idaho doesn't allow for that. The decision is made by an unknown committee, and that panel takes its recommendation to the state Supreme Court, which has final authority.

Even if you argue that it is OK for the Legislature to give the court so much authority to set fines (and I don't), I think it's clear that my system of meting penalties is much more transparent and accountable than the current system.

When applied correctly, our system of government with its separate branches exercising separate powers is the envy of the world. That system generally works well. But at times, not so well. This, I believe, is one of those occasions.

So today I stand with a minor disagreement regarding the application of law as passed by the Legislature, as administered by the court and as carried out by the executive branch. And I have a right to access the court with my grievance. I have the right to write about it. I'm not sure why certain people find that so offensive.

Wayne Hoffman
Executive Director
Idaho Freedom Foundation