

BOISE, THURSDAY, JUNE 26, 2025, AT 1:30 P.M.

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 50448

STATE OF IDAHO,)
)
Plaintiff-Respondent,)
)
v.)
)
JASON NICHOLAS LONG,)
)
Defendant-Appellant.)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Lynn G. Norton, District Judge.

Erik R. Lehtinen, State Appellate Public Defender; Jacob L. Westerfield, Deputy State Appellate Public Defender, Boise, for appellant.

Hon. Raúl R. Labrador, Attorney General; Elizabeth H. Estess, Deputy Attorney General, Boise, for respondent.

Jason Nicholas Long appeals from his judgment of conviction for aggravated battery. Long and the victim were neighbors in a duplex. Following an argument between the victim and the victim's girlfriend, the victim walked out of their residence. Long stood outside their residence and a physical altercation began between Long and the victim. The victim suffered several broken bones in his face and required surgery on his jaw. Following the surgery, the victim suffered hypertension as a result of alcohol withdrawal. Approximately six weeks after the altercation, the victim and the victim's girlfriend reported the incident to the police. At trial, the victim testified that, after the battery occurred, Long told the victim he would "bury" the victim if the victim ever touched the victim's girlfriend or any other girl. During closing argument, the prosecutor told the jury that, if a person makes false or misleading statements to the police, it is a crime. Long was ordered to pay restitution to the victim for expenses incurred for medical treatment including those costs associated with being observed and treated for alcohol withdrawal.

On appeal, Long argues that the district court erred in allowing the victim's statement, that Long would "bury" the victim, as it constituted improper character evidence under Idaho Rule of Evidence 404(b). Further, Long argues that the district court incorrectly determined the victim's statement was admissible under the *res gestae* doctrine. Long also argues that the prosecutor engaged in prosecutorial misconduct by misstating the law, vouching for the State's witnesses, and

referencing facts not in evidence during the prosecutor's closing argument. Long argues that these errors, even if individually harmless, when considered cumulatively, constitute error. Finally, Long argues that the district court erred in awarding the victim restitution for costs associated with alcohol withdrawal because the district court failed to consider whether the conduct for which Long was convicted was the proximate cause of those costs.

The State argues that the victim's statement was not character evidence but was rather part and parcel of the charged conduct which made the district court's determination, that the statement was admissible pursuant to the *res gestae* doctrine, proper. The State next argues that Long failed to show that the prosecutor committed misconduct during closing arguments. The State argues that even if these were in error, they do not constitute cumulative error requiring reversal. Finally, the State argues that the district court did not err in awarding restitution to the victim for costs associated with alcohol withdrawal and treatment because it found that, if it were not for Long's conduct, the victim would not have incurred such expenses.