

SUMMARY STATEMENT

State v. Jesse Elias, Docket No. 41477

In a case from Kootenai County, the Idaho Supreme Court vacated Elias' judgment of conviction for forcible penetration by a foreign object. Elias was charged and convicted by a jury of the crimes of forcible penetration by a foreign objection and burglary. Ultimately, Elias was placed on probation for fourteen years and he timely appealed. At the time of Elias' conduct giving rise to the charge, Idaho Code section 18-6608 required that the crime be perpetrated against the victim's will by use of force. Because the victim was sleeping at the time Elias digitally penetrated her vagina, the Supreme Court found that there was not substantial evidence that he used force to cause penetration against her will. Because the maximum period of probation that could be imposed for burglary was ten years, the Idaho Supreme Court remanded the case to the district court to modify the order of probation as to its duration.