

## SUMMARY STATEMENT

*State of Idaho v. Edward L. Comer*, Docket Nos. 43718 & 43719

In two cases arising out of Bannock County, the Idaho Court of Appeals reversed the district court's order granting consolidation, vacated the judgments of conviction, and remanded the cases.

Edward L. Comer was charged in two separate cases with several charges of sexual abuse of a child under sixteen. Each case involved a different victim. After trial in one case, the jury returned a not guilty verdict for one count and did not reach a verdict on the second count. The State moved to consolidate the charge for which the jury could not agree on the verdict with the charges in the second case. The State's basis for the consolidation was that the alleged acts took place in the same time period, the victims were the same gender and of similar age, the acts of abuse were similar, and the acts took place in Comer's home while the victims were in his care. Over Comer's objection, the district court granted the motion. Comer was subsequently convicted of three counts of sexual abuse of a minor under sixteen.

The Court of Appeals reversed the district court's order granting the motion to consolidate finding there was insufficient evidence of a common scheme or plan upon which to base the consolidation. The judgments of conviction were vacated and the cases remanded.