

## **SUMMARY STATEMENT**

*State v. Rodriguez*, Docket No. 46333

This appeal arose from a judgment of conviction under Idaho Code section 18-8505, which makes it a felony to supply a firearm to a gang member. John Robert Rodriguez sold a firearm to an individual who had visible gang tattoos and had previously identified himself as a member of the Norteño gang, but who was actually an informant paid by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The State charged Rodriguez with two counts of providing firearms to criminal gang members under Idaho Code section 18-8505 and a sentencing enhancement for providing the firearm to further criminal gang purposes under Idaho Code section 18-8503(1)(b). After trial, the jury returned a verdict of guilty as to one count but not guilty as to the second, and answered no to the sentencing enhancement question (i.e., the State had not proven that the sale of the gun was to further a criminal gang purpose). The district court entered a Judgment of Conviction, Suspended Sentence, and Order of Probation. Rodriguez timely appealed. He argued that his conviction must be vacated because by criminalizing the sale or transfer of firearms to gang members without the intent to further criminal or gang activity, Idaho Code section 18-8505 violates several rights guaranteed by the federal Constitution. The Supreme Court affirmed Rodriguez's judgment of conviction on the grounds that Rodriguez had forfeited his constitutional challenges by failing to raise them in the district court.