

BOISE, FRIDAY, FEBRUARY 15, 2019 AT 8:50 A.M. at Concordia Law School

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)
)
 Plaintiff-Respondent,)
)
 v.)
)
 GREGG JAMES MILLER,)
)
 Defendant-Appellant.)
)

Docket No. 46517

Appeal from the District Court of the First Judicial District, State of Idaho, Kootenai County. Hon. Steven Verby, District Judge.

Eric D. Frederickson, State Appellant Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Idaho Attorney General, Boise, for respondent.

In an appeal arising out of Kootenai County, Gregg James Miller appeals his convictions for injury to a child and felony eluding. As to the injury to a child conviction, Miller argues the jury instruction, combined with the prosecutor's closing argument, created a fatal variance with the information. Miller also argues the prosecutor committed prosecutorial misconduct during closing arguments by appealing to the emotions, passions, and prejudices of the jury, and by misstating the evidence. Miller appealed his judgment of conviction and sentence to the Court of Appeals, which affirmed. Miller timely filed a petition for review, which this Court granted.