

## **SUMMARY STATEMENT**

*State of Idaho v. Juan Ruben Gutierrez*

Docket No. 47089

In this case arising out of Canyon County, the Court of Appeals affirmed Juan Ruben Gutierrez's judgment of conviction for unlawful possession of a firearm. Gutierrez, a convicted felon, was found in possession of a muzzle-loading, black-powder pistol. After the State charged Gutierrez with unlawful possession of a firearm, I.C. § 18-3316, he moved to dismiss the charge and, alternatively, proposed a jury instruction defining the term firearm according to the definition found in 18 U.S.C. § 921 and incorporated by reference in I.C. § 18-3302D(2)(b). The district court denied both motions. Gutierrez reserved the right to appeal both decisions and entered a conditional guilty plea to the unlawful possession charge.

On appeal, Gutierrez argued that the district court erred by denying his motion to dismiss because the term "firearm" is not defined within I.C. § 18-3316, the statute criminalizing unlawful possession of a firearm, leaving the statute unconstitutionally vague as applied to his conduct. Gutierrez also argued that the district court erred by rejecting his proposed jury instruction. The Court of Appeals held that Gutierrez's as-applied vagueness challenge failed because I.C. § 18-3302(2)(d) defines the term firearm as used in I.C. § 18-3316. The Court of Appeals further held that the district court properly rejected Gutierrez's proposed jury instruction as an incorrect statement of the law.