

## SUMMARY STATEMENT

*State v. Gardner*, Docket No. 47242

Edward Lee Gardner appealed his conviction and sentence for several counts of sexual exploitation of children over the internet. Gardner alleged that his conviction should be vacated and he should receive a new trial under several theories. First, Gardner argued the State committed prosecutorial misconduct when it (1) failed to redact references to a polygraph examination from an audio recording it played for the jury of Gardner's interview by detectives, and (2) allegedly violated a district court order by introducing evidence about videos of child pornography that were found on Gardner's computer, but did not underlie the charges against him. Additionally, Gardner argued that the cumulative effect of the above alleged errors deprived him of a fair trial. Second, Gardner argued that the district court violated his due process rights by prohibiting him from presenting certain arguments in closing. Finally, Gardner argued that the district court erred in denying his motion for acquittal after determining there was sufficient evidence that the pornographic images he was accused of possessing and distributing were depictions of actual children, as opposed to drawings or virtual depictions of children.

The Idaho Supreme Court affirmed Gardner's convictions. The Court held that although the prosecutor erred in failing to redact the references to the polygraph examination, the error was harmless. Further, the Court held that the prosecutor did not commit misconduct by introducing evidence regarding pornographic videos, and as such, Gardner's argument that the cumulative error doctrine applied was meritless. Second, the Court held that Gardner's argument that the district court improperly limited his closing arguments was contradicted by the record. Finally, the Court held that the district court did not err in denying Gardner's motion for judgment of acquittal because there was sufficient evidence that the pornographic images depicted actual children.

**\*\*\*This summary constitutes no part of the opinion of the Court, but has been prepared by court staff for the convenience of the public.\*\*\***