

## SUMMARY STATEMENT

*State of Idaho v. Gilberto Roman-Lopez*

Docket No. 47778

After trial, a jury found Roman-Lopez guilty of three counts of lewd conduct with a minor under sixteen and two counts of sexual abuse of a child under sixteen. The district court ordered a presentence investigation report (PSI) to be completed prior to sentencing. At the sentencing hearing, Roman-Lopez noted his disagreement with one sentence in the PSI.

On appeal, Roman-Lopez asserts the district court erred by admitting two pieces of evidence during his trial; first, a drawing of the layout of Roman-Lopez's living room and bedroom made by one of the victims and, second, testimony concerning a statement Roman-Lopez made during an interview with a detective. Roman-Lopez alleges the evidence constituted inadmissible hearsay and the erroneous admission of the evidence was not harmless. Alternatively, he argues the errors amounted to cumulative error. Additionally, Roman-Lopez argues the district court erred by not redlining or otherwise correcting his PSI after he voiced disagreement with one sentence in the report.

The Idaho Court of Appeals held that Roman-Lopez did not establish reversible error for either challenged piece of evidence. First, the Court of Appeals declined to adopt a free review standard of review for the district court's evidentiary rulings. Second, the Court held that the admission of the drawing was harmless because its content was otherwise established by admissible and unchallenged evidence during the trial. Third, the Court held that the detective's testimony was not hearsay because it constituted a statement of a party opponent, which is an exception to the hearsay prohibition, and an instruction or command, which is not hearsay. However, even if the detective's testimony was hearsay, its admission was harmless. Finally, the Court of Appeals held the district court did not have an obligation to redline the PSI because Roman-Lopez did not offer any evidence to rebut the challenged sentence's reliability, the record did not indicate the court accepted his proposed correction, and the district court attached a document to the PSI reflecting the corrections to the PSI. Consequently, the Court of Appeals affirmed the district court's judgment of conviction.

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