

SUMMARY STATEMENT

State v. Ogden, Docket Nos. 48301 & 48302

Darin Ogden appealed from his convictions for one count of sexual exploitation of a child and one count of sexual battery. Ogden argued his convictions should be vacated because of several erroneous evidentiary rulings made by the district court. The Idaho Supreme Court affirmed Ogden's sexual battery conviction after holding the district court did not abuse its discretion in denying a motion in limine in which Ogden sought to introduce evidence of the victim's sexual history with a third party because it was impermissible under Idaho Rule of Evidence 412. The Court also held the district court did not abuse its discretion in excluding evidence of drug gangs because it was not relevant to the sexual allegations in the case.

However, the Court vacated Ogden's sexual exploitation conviction after holding the district court abused its discretion in denying another motion in limine that Ogden filed before trial. Ogden's second motion also sought to introduce evidence of the victim's sexual history with a third party, but it involved a different man and different facts that related to the exact date when the explicit photograph identified in the sexual exploitation charge was ostensibly taken. Thus, the Court held Ogden satisfied the exception set forth in Rule 412(b)(4) that allows a defendant to introduce evidence an alleged victim's sexual behavior with someone other than the defendant that occurred at the time of the event giving rise to the sex crime charged.

Separately, Ogden argued his sentences should be vacated because the district court considered unreliable information related to earlier conduct for which he had been acquitted. Ogden also requested that the presentence investigation report be redacted to omit those allegations. The Court held the district court did not abuse its discretion during sentencing, and because the court was permitted to consider conduct Ogden had been acquitted of, the district court did not err in declining to redact the presentence investigation report to omit that information.

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