

## SUMMARY STATEMENT

*Hernandez v. State, Docket No. 49161*

After pleading guilty to second degree murder, Jonathon Hernandez filed a post-conviction petition alleging his trial counsel was ineffective for promising Hernandez he would not receive a sentence of more than ten to fifteen years. Following this alleged promise from his attorney, Hernandez pleaded guilty and signed a written plea agreement and guilty plea advisory form. At the change of plea hearing, the district court placed Hernandez under oath and confirmed that Hernandez and his attorney had reviewed the guilty plea advisory form. That form explained that the “judge [was] not bound by the sentencing recommendation” and was “free to impose whatever sentence he or she deem[ed] just and fit.” The district court later sentenced Hernandez to a unified term of life in prison, with a minimum period of confinement of forty-five years. Following an unsuccessful appeal, Hernandez petitioned for post-conviction relief. At the hearing on the State’s motion for summary disposition, the district court found that any error Hernandez’s counsel made was cured by a colloquy that took place between the district court and Hernandez at the change-of-plea hearing. There, the district court confirmed answers Hernandez gave on the plea agreement form, and the potential sentence Hernandez faced. The district court granted the State’s motion for summary disposition and dismissed Hernandez’s case with prejudice. Hernandez then appealed to the Idaho Supreme Court.

The Idaho Supreme Court affirmed the district court’s judgement, holding that Hernandez’s post-conviction petition failed to include specific evidence, beyond Hernandez’s own statements, sufficient to overcome the rebuttable presumption of veracity from his sworn statements to the district court. Additionally, the Court concluded that Hernandez failed to establish, by clear and convincing evidence, that his changed statements were probative enough to warrant an evidentiary hearing.

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