

SUMMARY STATEMENT

State v. Randal Gary Towell

Docket No. 49229

Randal Gary Towell appeals from his judgment of conviction for three counts of lewd conduct with a child under sixteen and two counts of sexual abuse of a minor under sixteen. Towell asserts the district court erred in denying his motion for a mistrial due to a detective's statement that children living in Towell's home, other than the victim, were interviewed at a Child at Risk Evaluation Services (CARES) facility. Upon objection from both the State and Towell, the district court struck the statement and instructed the jury to disregard the statement from the detective. Towell also contends that the district court erred in admitting the victim child's statements to a physician during a CARES interview pursuant to the hearsay exception in Idaho Rule of Evidence 803(4).

The Court of Appeals held that the district court did not err in interpreting its own pretrial order regarding evidence related to the other children's CARES interviews and that the detective's stricken testimony, for which the district court provided a curative instruction, did not warrant a new trial. In addition, the Court held that the victim child's statements to the physician during the CARES interview were admissible under the hearsay exception in I.R.E. 803(4) where the purpose of the statements was for medical diagnosis or treatment. Alternatively, any err in the admission of the hearsay statements was harmless.

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