

## SUMMARY STATEMENT

*State v. Al Muthafar*

Docket No. 49435

Jameel Fakhri Al Muthafar (“Al Muthafar”) appealed his convictions for aggravated assault and attempted strangulation. Al Muthafar contended that the district court erred by denying his motion to dismiss the information after the magistrate court admitted hearsay statements at the preliminary hearing over his objection. The testimony at issue came from a nurse at the Family Advocacy Center and Education Services, commonly known as FACES of Hope (“FACES”), during a dual medical and forensic examination. Al Muthafar argues that absent these inadmissible statements, there was insufficient probable cause to bind the case over to the district court. Al Muthafar also argued that the district court abused its discretion in sentencing him to a unified sentence of fifteen years, with five years fixed.

On appeal, the Idaho Supreme Court affirmed Al Muthafar’s convictions. While the Court agreed that the magistrate court abused its discretion in admitting the nurse’s testimony at the preliminary hearing, it determined that the district court’s failure to dismiss the information was harmless. The Supreme Court held that pursuant to *State v. Mitchell*, 104 Idaho 493, 660 P.2d 1336 (1983), an error in the preliminary hearing phase is harmless error if the defendant otherwise received a fair trial, and the admissible evidence presented at trial sustained his convictions. Here, the Court concluded that any errors occurring in the preliminary hearing were remedied at trial because the victim testified and the FACES interview was properly admitted.

The Supreme Court also rejected Al Muthafar’s challenge to his sentence, explaining that the district court properly considered the four objectives of sentencing: protection of society, deterrence, rehabilitation, and punishment, and handed down a decision within the bounds of its discretion. Thus, the sentence was reasonable in light of these goals.

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