

**SUMMARY STATEMENT**  
***Pizzuto v. State/State v. Pizzuto***  
**Docket Nos. 49489 & 49531**

The Idaho Supreme Court issued an opinion on the State’s expedited appeal regarding the commutation of Gerald Ross Pizzuto’s death sentences. The Supreme Court unanimously reversed the district court’s decisions, in effect restoring Pizzuto’s original sentences, and remanded the matters for further proceedings.

Pizzuto was convicted of two brutal murders and sentenced to death in 1986. In December 2021, the Idaho Commission of Pardons and Parole voted 4-3 to recommend Pizzuto’s death sentence be commuted to life without the possibility of parole. The Commission forwarded this recommendation to Governor Brad Little pursuant to Idaho Code section 20-1016, and the Governor immediately denied the recommendation. Pizzuto then challenged the constitutionality of the Governor’s actions, arguing that Article IV, section 7 of the Idaho Constitution, which was amended by the people of Idaho in 1986, placed the commutation power exclusively in the hands of the Commission, thereby rendering Idaho Code section 20-1016 unconstitutional and voiding the Governor’s action. The district court agreed with Pizzuto’s arguments and concluded that Idaho Code section 20-1016 was unconstitutional. Accordingly, it concluded that his death sentences were illegal. The State timely appealed.

In the majority opinion, authored by Justice Moeller, the Idaho Supreme Court reversed the district court, concluding that Idaho Code section 20-1016 is consistent with the authority granted to the Legislature in Article IV, section 7 of the Idaho Constitution. The Court explained:

while the commutation power remains wholly vested in the executive branch through the Commission, the 1986 amendment to the Constitution is clear that the Legislature now determines how that power operates. This allowed the Legislature to include an additional requirement of gubernatorial approval for the commutation of capital offenses.

Accordingly, the Court held that the Governor’s rejection of the Commission’s recommendation to commute Pizzuto’s death sentences was proper under Idaho law.

Reviewing the history of the commutation process in Idaho, the Supreme Court noted that “for most of Idaho’s history the governor has played a significant role in this process, although the extent of his power has waxed, waned, and now seemingly waxed again over time.” Addressing Pizzuto’s constitutional concerns, the Court held that the process created by the Legislature under Idaho Code section 20-1016 does not offend the Idaho Constitution because it is “consistent with the course set by the 1986 amendment to Article IV, section 7, which allowed the Legislature to ‘create’ a new Board and govern the Commission’s commutation powers ‘by statute.’ ”

A special concurrence, authored by Justice Horton, sitting pro tem, and joined by Justice Brody, concurred in the result reached by the majority and in its analysis of Article IV, section 7 of the Idaho Constitution. They agreed with the majority that “following the 1986 amendment, the Commission possesses the power to grant commutations and pardons only to the extent that there is statutory authority to do so,” but disagreed that this authority included granting the governor the ability to “approv[e] or disapprov[e]” a recommendation by the Commission, as allowed by Idaho Code section 20-1016. Nevertheless, the concurring justices concluded that reversal was still

warranted because Idaho's statutory scheme does not affirmatively grant the Commission authority to commute Pizzuto's sentence.

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