

SUMMARY STATEMENT

State v. Rodriguez

Docket No. 50513

The appeal concerns the application of Idaho's riot statute, Idaho Code section 18-6401. The State appealed from the district court's order dismissing the charge of riot against Fernando Rodriguez, an inmate housed in an Idaho Department of Corrections (IDOC) facility. The State alleged Rodriguez participated in a riot by creating "a disturbance of the peace" or causing "damage or destruction to property" by "starting a fire in a trash can and/or by harassing IDOC staff members and/or by dumping soap near the door" while "acting together with others and without authority of law."

Following a preliminary hearing, the magistrate court found probable cause to believe that Rodriguez had committed the crime and bound him over to the district court. Rodriguez moved to dismiss the charge. After determining that the evidence presented at the preliminary hearing supported the sole finding that Rodriguez had dumped soap on the concrete floor during the disturbance, the district court granted the motion to dismiss. The district court concluded: (1) there was no evidence to support a finding that Rodriguez's action in dumping soap on the floor resulted in property damage; and (2) Rodriguez did not commit a riot by "disturbing the public peace" because "public" peace does not apply to a prison setting.

The Idaho Supreme Court reversed the district court's decision and remanded with instructions to re-instate the riot charge against Rodriguez. The Court first concluded that the phrase "public peace" unambiguously refers to the external peace of the public *writ large*, which can be disturbed by conduct occurring inside a prison. The Court then held that the district court erred in granting Rodriguez's motion to dismiss because there is probable cause to believe that Rodriguez acted together with other inmates to disturb the public peace and cause property damage.

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