

**BOISE, TUESDAY, JANUARY 14, 2020, AT 9:00 A.M.**

**IN THE COURT OF APPEALS OF THE STATE OF IDAHO**

**Docket No. 46671**

**STATE OF IDAHO,** )  
 )  
 **Plaintiff-Appellant,** )  
 )  
 **v.** )  
 )  
 **TYLER ANTHONY HOWELL,** )  
 )  
 **Defendant-Respondent.** )  
 )

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Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Deborah A. Bail, District Judge.

Eric D. Fredericksen, State Appellate Public Defender; Jason C. Pintler, Deputy Appellate Public Defender, Boise, for respondent.

Hon. Lawrence G. Wasden, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for appellant.

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The State charged Tyler Anthony Howell with sexual abuse of a minor under the age of sixteen, a felony. The statute requires an individual to “induce, cause or permit a minor child to witness an act of sexual conduct.” I.C. § 18-1506. After the jury returned a guilty verdict, Howell filed an Idaho Criminal Rule 29 motion for judgment of acquittal. Howell argued there was insufficient evidence as to whether the child actually witnessed an act of sexual conduct, which requires more than exposure of the genital region. The district court agreed, finding the evidence only supported guilt as to indecent exposure. I.C. § 18-4116. The court then entered a reduced judgment of conviction finding Howell guilty of misdemeanor indecent exposure and placed him on probation. The State timely appeals.

On appeal, the State argues the district court erred in setting aside the jury’s verdict. It asserts the evidence overwhelmingly supports the inference that the child actually witnessed sexual conduct, satisfying the requisite elements for conviction under I.C. § 18-1506. It asks this court to reverse the district court’s order, vacate the judgment, reinstate the jury’s verdict, and remand for sentencing on the crime of conviction.