

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 44499

STATE OF IDAHO, )  
 )  
 Plaintiff-Respondent, )  
 )  
 v. )  
 )  
 KASEY A. SMITH, )  
 )  
 Defendant-Appellant. )  
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Appeal from the District Court of the Sixth Judicial District, State of Idaho, Bannock County. Hon. David C. Nye, District Judge.

Eric D. Fredericksen, State Appellate Public Defender; Andrea W. Reynolds, Deputy Appellate Public Defender, Boise, for appellant.

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

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After receiving a report involving the sexual assault of a minor, an officer from the Pocatello Police Department interviewed Kasey A. Smith, the alleged perpetrator. The officer asked Smith to sign a waiver that included the standard *Miranda* warnings. Smith signed the waiver. During the interview, the officer performed a computer voice stress analysis test on Smith. Once the test concluded, the officer continued to question Smith, who confessed to touching the victim. After being charged with one count of lewd conduct with a child under sixteen by manual-genital contact, Smith filed a motion to suppress his confession, claiming it was not voluntary. The district court denied the motion. Smith subsequently entered into a plea agreement with the State. At sentencing, the district court found that Smith had violated the terms of his plea agreement by not completing a full disclosure polygraph. Smith argued that he had completed the polygraph test but had merely refused to participate in the post-test interview.

On appeal, Smith argues that the district court's denial of his motion to suppress should be reversed and his judgment of conviction vacated because his confession was not voluntary. Smith also asks to be resentenced, asserting that the district court erred in finding that he breached his plea agreement.