

**BOISE, FRIDAY, APRIL 16, 2021 AT 11:10 A.M.**

**IN THE SUPREME COURT OF THE STATE OF IDAHO**

<b>STATE OF IDAHO,</b>	)	
	)	
<b>Plaintiff-Respondent,</b>	)	
	)	
<b>v.</b>	)	<b>Docket No. 47242</b>
	)	
<b>EDWARD LEE GARDNER,</b>	)	
	)	
<b>Defendant-Appellant.</b>	)	
_____	)	

Appeal from the District Court of the Third Judicial District of the State of Idaho,  
Canyon County. Gene A. Petty, District Judge.

Phelps & Associates, Spokane, Washington, for appellant.

Lawrence G. Wasden, Idaho Attorney General, Boise, for respondent.

\_\_\_\_\_

Edward Lee Gardner appeals his jury conviction and sentence for sexual exploitation of children over the internet. Over the span of a year, the Internet Crimes Agents Children Task Force ("ICAC") received downloads of suspected child pornography from an internet protocol address associated with Gardner's home. ICAC executed a search warrant and discovered that Gardner was in possession of 771 images and 10 videos of child pornography. The State charged Gardner with eight counts of willfully possessing or accessing sexually exploitative material of a child, and two counts of knowingly distributing sexually exploitative material of a child. I.C. § 18-1507(2)(a), (d). Gardner pled not guilty and requested a jury trial. After a three-day trial, the jury found Gardner guilty on all 10 counts.

Gardner now seeks that his convictions be vacated and demands that he receive a new trial under several theories: (1) the state committed prosecutorial misconduct when it (a) failed to redact references of a polygraph examination from an audio recording of Gardner's interview with ICAC detectives, and (b) allegedly violated the district court's order by introducing video evidence; (2) the cumulative effect of the above errors deprived him of a fair trial; (3) the district court violated his due process rights by prohibiting him from presenting the defense that the images depicted in the State's Exhibits were not identifiable children; and (4) the district court erred in denying his motion for acquittal after determining there was sufficient evidence that the images depicted in the State's Exhibits were actual children, as opposed drawings or virtual depictions.