

BOISE, FRIDAY, DECEMBER 9, 2022 at 10:00 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,)	
)	
v.)	Docket No. 49037
)	
GEORGE FERNANDO CUENCA,)	
)	
Defendant-Appellant.)	
_____)	

Appeal from the District Court of the Third Judicial District of the State of Idaho, Canyon County. Davis F. Vandervelde, District Judge.

Eric D. Fredericksen, State Public Defender, Boise, for Appellant.

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

This appeal concerns whether the district court violated George Fernando Cuenca’s constitutional right to confront his accusers when it required witnesses to wear medical masks while testifying at trial. Prior to empaneling the jury, the district court ordered that everyone in the courtroom would wear medical masks. Cuenca objected that the jury would not be able to assess the testifying witnesses’ facial expressions and body language, which made it harder to judge credibility. The district court overruled the objection based on the Idaho Supreme Court’s emergency COVID-19 order in effect at that time. The trial proceeded, and the jury found Cuenca guilty of aggravated battery. Cuenca appeals, and argues that the district court’s medical mask order violated his right to confront his accusers because the jury could not effectively evaluate the credibility of witnesses. Cuenca maintains that the State will not be able to show that this error was harmless beyond a reasonable doubt because the State’s case centered on the credibility of the witness who accused Cuenca of aggravated assault.