

**BOISE, FRIDAY, DECEMBER 9, 2022, AT 8:50 A.M.**

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

<b>JONATHON HERNANDEZ,</b>	)	
	)	
<b>Petitioner-Appellant,</b>	)	
	)	
v.	)	<b>Docket No. # 49161</b>
	)	
<b>STATE OF IDAHO,</b>	)	
	)	
<b>Respondent.</b>	)	
	)	
_____	)	

Appeal from the District Court of the Third Judicial District of the State of Idaho, Payette County. Christopher S. Nye, District Judge.

Nevin, Benjamin & McKay LLP, Boise, attorneys for Appellant.

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

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After pleading guilty to second-degree murder, Jonathon Hernandez filed a post-conviction petition alleging his trial counsel was ineffective for promising he would not receive a sentence of more than 10-15 years. Following this promise by counsel, Hernandez agreed to plead guilty and signed the plea advisory form. However, the district court ultimately sentenced Hernandez to 45 years to life. Hernandez filed an Idaho Criminal Rule 35 motion to reduce his sentence, which the district court denied. Hernandez appealed that decision to the Idaho Court of Appeals, which affirmed. Hernandez later filed a petition for post-conviction relief. At the hearing on the State's motion for summary judgement, the district court determined that any error made by Hernandez's counsel was cured by a colloquy that took place between the district court and Hernandez where they discussed answers to the plea agreement form and the potential sentence Hernandez faced. The district court granted the motion for summary judgement and dismissed Hernandez's case with prejudice. Hernandez now appeals to this Court.