

UNIVERSITY OF IDAHO COLLEGE OF LAW– BOISE, WEDNESDAY, FEBRUARY 11, 2026, AT 10:00 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,

Plaintiff-Respondent,

v.

NICHOLAS JAMES ORR.

Defendant-Appellant.

Docket No. 51866-2024

Appeal from the District Court of the Sixth Judicial District of the State of Idaho,
Bannock County. Rick Carnaroli, District Judge.

Erik R. Lehtinen, State Appellate Public Defender, Boise, for Appellant.

Raúl R. Labrador, Idaho Attorney General, Boise, for Respondent.

This case concerns the constitutionality of Idaho’s witness intimidation statute, Idaho Code section 18-2604. While in custody at the Bonneville County Jail following his arrest on a different charge, Nicholas James Orr made a number of phone calls to an individual associated with that charge. During the calls, Orr made requests to the individual concerning the person’s testimony and Orr expressed his intention to avoid jail time. The State then charged Orr with witness intimidation and alleged that Orr used direct or indirect force, threats, or “any [other] manner” with the intent to “deter, harass, threaten, impede, influence, intimidate, and/or prevent” the individual from testifying.

Orr filed a motion to dismiss the charge and argued, relevant to this appeal, that section 18-2604(3) violates the First Amendment's right to free speech as both facially overbroad and as applied to Orr's conduct because it criminalizes protected speech. The district court denied Orr's motion to dismiss and concluded the statute did not infringe upon protected speech. Following plea negotiations with the State, Orr conditionally pleaded guilty to the intimidation charge but reserved his right to appeal the denial of his motion to dismiss.

On appeal, Orr argues that the use of the phrase “any manner” in section 18-2604(3) is overbroad and proscribes protected speech in violation of the First Amendment. Orr additionally argues the statute is unconstitutional as applied to him because he was charged based “solely on his spoken word” and that the First Amendment protects his requests that the individual provide additional information in testimony.