

BOISE, THURSDAY, JANUARY 23, 2024, AT 1:30 P.M.

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 50150

STATE OF IDAHO,)
)
 Plaintiff-Respondent,)
)
 v.)
)
 JOSHUA ERIC MOLINA,)
)
 Defendant-Appellant.)
)

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Twin Falls County. Hon. Benjamin J. Cluff, District Judge.

Erik R. Lehtinen, State Appellate Public Defender; Justin M. Curtis and Ben P. McGreevy, Deputy Appellate Public Defenders, Boise, for appellant.

Hon. Raúl R. Labrador, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

Joshua Eric Molina appeals from his judgment of conviction for three counts of felony injury to a child, one count of misdemeanor injury to a child, and first degree murder. This case arises from injuries sustained by a twenty-month-old child that ultimately resulted in the child's death. The child was the daughter of Molina's girlfriend. Following an investigation, Molina was charged with four counts of felony injury to a child and one count of first degree murder. A jury trial was held at which several witnesses testified, including Molina's former girlfriend and roommate. Molina was found guilty of one count of felony injury to a child and one count of misdemeanor injury to a child as a lesser-included offense. The jury was unable to reach a verdict on the remaining charges, resulting in a mistrial on those counts.

A second jury trial was held on the remaining counts at which Molina's former girlfriend and roommate again testified. At the second trial, the State directed the former girlfriend to testify from the first trial. Molina objected to the prior trial testimony; the State responded that the prior testimony was admissible as a prior consistent statement. Similarly, the roommate testified, and the State sought to have him read some of his testimony from the first trial. Molina objected and the district court overruled Molina's objection.

Molina was ultimately found guilty of the remaining counts. Molina appeals. Molina asserts the district court abused its discretion when concluding the prior trial testimony of Molina's former girlfriend and roommate was admissible as prior consistent statements.