

SUMMARY STATEMENT

State of Idaho v. Benito Razo-Chavez – Docket No. 42398

In a case arising out of Twin Falls County, the Idaho Supreme Court dismissed an appeal from the conviction of Respondent, Benito Razo-Chavez, for one count of possession of oxycodone. Appellant, the State of Idaho, appealed from the conviction, seeking a determination that the district court had given a jury instruction that misstated the elements of possession of a controlled substance under Idaho Code section 37-2732(c). Specifically, the instruction stated the *mens rea* element of possession of a controlled substance as: “the defendant either knew it was oxycodone or believed it was oxycodone.” The State argued that this instruction was improper and should have stated the *mens rea* element as “the defendant either knew it was oxycodone or believed it was a controlled substance.” In other words, the State asserted that Razo-Chavez did not have to believe that the substance he possessed was oxycodone to be guilty of possession of oxycodone, but needed only to believe that the substance possessed was a controlled substance—including but not limited to oxycodone.

The Idaho Supreme Court dismissed the appeal, without determining whether the district court had erred, on the grounds that the alleged error in the jury instruction given by the district court was harmless. The jury in the underlying case had convicted Razo-Chavez of possession of oxycodone, despite a jury instruction requiring that he knew or believed that he possessed oxycodone. Accordingly, it is indisputable that if the jury had been given the instruction proposed by the State (that Razo-Chavez need only have known or believed that he possessed a controlled substance) the jury would have come to the same conclusion. Having established that dismissal of the appeal was appropriate under the harmless error doctrine, the Court declined to address arguments regarding the mootness doctrine.