

SUMMARY STATEMENT

State of Idaho v. Robert Johnson Kinney

Docket No. 44752

Robert Johnson Kinney was charged with felony sexual battery of a minor. Kinney filed three motions to dismiss, one of which was a motion to dismiss on proportionality grounds. The district court denied all three motions. With regards to Kinney's motion to dismiss on proportionality grounds, the district court relied on the legislative intent within Idaho's Sex Offender Registration Act and Idaho case law, particularly the Idaho Supreme Court decision in *State v. Joslin*, 145 Idaho 75, 175 P.3d 764 (2007).

The case proceeded to trial where the jury found Kinney guilty of sexual battery of a minor. Prior to sentencing, Kinney filed a motion to reconsider the motion to dismiss on proportionality grounds. Kinney argued there was a possibility that a motion to dismiss on constitutional grounds was not ripe for adjudication until there was a conviction. Kinney also argued Idaho should adopt the reasoning of *Does #1-5 v. Snyder*, 834 F.3d 696 (6th Cir. 2016), an opinion which determined the Michigan sex-offender registry law was unconstitutional. The district court denied Kinney's motion to reconsider and Kinney appealed.

On appeal, Kinney argued that recent changes to Idaho's Sex Offender Registration Act have resulted in onerous and punitive registration requirements for sex offenders, thus constituting cruel and unusual punishment in violation of the Eighth Amendment of the Idaho Constitution and the United States Constitution. However, the Idaho Supreme Court has determined that, even in light of the amendments to Idaho's Sex Offender Registration Act, the Act is not punitive. Furthermore, the Idaho Supreme Court has ruled that Idaho's Sex Offender Registration Act does not violate the Eighth Amendment's prohibition of cruel and unusual punishment. Because the district court properly followed the rulings of the Idaho Supreme Court, the Idaho Court of Appeals affirmed the district court's order denying Kinney's motion to dismiss and judgment of conviction.