

## SUMMARY STATEMENT

*State v. Elizarraraz*

Docket No. 46106

Robert Charles Elizarraraz was charged with misdemeanor domestic assault for the abuse of his wife, A.E. A no-contact order was put in place. Contrary to the order, Elizarraraz moved back into the marital home with A.E.; law enforcement only became aware of the violation when they responded to a suicide attempt by Elizarraraz. Elizarraraz was arrested and convicted for violating the no-contact order. Elizarraraz continued to contact the victim, calling her from prison. Based on these contacts, Elizarraraz was charged with three felony counts of violating the no-contact order which were enhanced for being a persistent violator. Idaho Code §§ 18-920(3), 19-2514.

Pursuant to a plea agreement, Elizarraraz pled guilty to one count of felony violation of a no-contact order. I.C. § 18-920(3). The judgment of conviction provided that Elizarraraz should have no contact with A.E. The order was set to expire on February 27, 2018. In January of 2018, A.E. filed a request to modify the no-contact order, asking the district court to extend the order. Elizarraraz filed an objection, claiming the district court only had the authority to terminate or modify the no-contact order, not to extend it. The district court determined it did have authority to extend the no-contact order and extended it to April 26, 2028.

On appeal, Elizarraraz argued the plain language of I.C. § 18-920 and Idaho Criminal Rule 46.2 do not allow district courts to extend the duration of no-contact orders. Specifically, that a plain reading of Rule 46.2 permitted the modification of the substance of an order, which is only the scope of prohibited contacts, but not its duration. Further, that the rule only permitted one action regarding duration and that is termination. The Court of Appeals held the district court correctly determined it had authority to extend the duration of the no-contact order based on the plain language of I.C. § 18-920 and I.C.R. 46.2. It concluded nothing in rule or statute indicates that “modification” must be read so narrowly as to exclude duration. Thus, the Court determined the district court did not err when it extended the no contact order.