

SUMMARY STATEMENT

State v. Smalley, Docket No. 46382

The Idaho Supreme Court affirmed Phillip Smalley's judgment of conviction. Following a jury trial, Smalley was convicted of two counts of sexual abuse of a vulnerable adult and one count of sexual penetration by a foreign object. On appeal, Smalley asserted two claims of error. First, he alleged there was insufficient evidence to sustain his convictions for sexual abuse of a vulnerable adult because to qualify as a "vulnerable adult," the victim must have mental deficits, not just physical infirmity. Second, he argued that the trial court erred in admitting the victim's preliminary hearing video deposition instead of live in-court testimony, because she was not "unavailable" under the Idaho Rules of Evidence. The Court of Appeals upheld Smalley's convictions. The Idaho Supreme Court granted his petition for review and in a unanimous decision held that the victim met the definition of a "vulnerable adult" as provided in Idaho Code section 18-1505(4)(e) and that the district court did not abuse its discretion in allowing the out-of-court testimony.