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**IN THE SUPREME COURT OF THE STATE OF IDAHO**

<b>STATE OF IDAHO,</b>	)	
	)	<b>NO. 47195-2019</b>
<b>Plaintiff-Respondent,</b>	)	
	)	<b>BINGHAM COUNTY NO. CR-2018-4308</b>
<b>v.</b>	)	
	)	
<b>JUAN SANTOS-QUINTERO, JR.,</b>	)	<b>APPELLANT'S BRIEF</b>
	)	
<b>Defendant-Appellant.</b>	)	

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**BRIEF OF APPELLANT**

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**APPEAL FROM THE DISTRICT COURT OF THE SEVENTH JUDICIAL  
DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE  
COUNTY OF BINGHAM**

---

**HONORABLE DARREN B. SIMPSON  
District Judge**

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## STATEMENT OF THE CASE

### Nature of the Case

Following a bench trial, the district court convicted Juan Santos-Quintero, Jr., of multiple felonies relating to an incident where a law enforcement officer was shot. On appeal, Mr. Santos-Quintero asserts the district court abused its discretion when it admitted a detective's testimony describing statements of an unavailable witness, because the court applied a wrong standard to determine whether the statements should be admitted. Idaho Rule of Evidence 804(b)(3)(B) requires that statements against criminal interest from an unavailable declarant in a criminal case be supported by corroborating circumstances that clearly indicate their trustworthiness. However, the district court did not identify any corroborating circumstances supporting the statements, and erroneously determined that requirement did not apply.

### Statement of the Facts and Course of Proceedings

At Mr. Santos-Quintero's bench trial, Lamon Gentillon testified that he reported to law enforcement that someone had been shooting a gun from the driver's side window of a car, in the Wolverine Road area near Firth. (*See Tr.*, p.36, L.12 – p.38, L.19.)<sup>1</sup> He followed the car to a house in Firth. (*See Tr.*, p.40, L.5 – p.42, L.4.) The man driving the car went into the house, and later a woman got out of the car. (*See Tr.*, p.42, L.19 – p.43, L.12.) Mr. Gentillon identified the driver of the car as Mr. Santos-Quintero. (*See Tr.*, p.43, L.14 – p.44, L.23.)

Sergeant Howell, Deputy Van Orden, and Deputy Katseanes of the Bingham County Sheriff's Office responded to a priority call of shots fired, and arrived at the house in Firth. (*See Tr.*, p.52, L.8 – p.53, L.25, p.92, L.16 – p.94, L.2, p.142, L.3 – p.143, L.23.) Sergeant Howell

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<sup>1</sup> All citations to "Tr." refer to the transcript of the bench trial, conducted on April 23 and April 24, 2019.

received information that “Denise,” wanted for questioning in connection to robberies in Idaho Falls, and “Juan,” were possibly in the house. (*See Tr.*, p.56, Ls.12-18, p.57, L.19 – p.58, L.20.) A few days before, Joshua Fuhriman had reported that his Ruger 9E gun and other items were stolen from his car in the Ammon Walmart parking lot. (*See Tr.*, p.29, L.18 – p.31, L.3.)

Bonneville County Sheriff’s Office Detective Hammer testified that he investigated the theft at the Walmart. (*See Tr.*, p.354, L.22 – p.355, L.20.) Officers found items from Mr. Fuhriman’s car in an abandoned SUV, which matched the appearance of an SUV videotaped near Mr. Fuhriman’s car in the Walmart parking lot. (*See Tr.*, p.356, L.22 – p.360, L.1.) Detective Hammer testified that Mr. Santos-Quintero became part of the investigation after people reported that one Denise Williams got out of the SUV during a drug deal, and Ms. Williams was dating “Mono” or Mr. Santos-Quintero. (*See Tr.*, p.361, L.18 – p.362, L.14.)

At the house in Firth, Deputy Katseanes used his PA system to tell the people in the house to come out with their hands up. (*See Tr.*, p.59, Ls.2-20.) He testified that he spoke with the homeowner, who thought his girlfriend’s daughter was inside of his house, but was not sure about anyone else. (*See Tr.*, p.145, Ls.9-19.) The homeowner testified that law enforcement had arrived at his house because a couple of individuals, including Ms. Williams, had supposedly come into the house. (*See Tr.*, p.215, L.25 – p.216, L.13.) The homeowner’s girlfriend, Ms. Williams’ mother, testified that law enforcement showed up at the house because Ms. Williams and Mr. Santos-Quintero were there. (*See Tr.*, p.226, Ls.6-13.) However, they had only seen Ms. Williams enter. (*See Tr.*, p.216, Ls.14-17, p.221, L.20 – p.222, L.5, p.227, Ls.15-18.)

Some time after Deputy Katseanes made his PA announcements, Ms. Williams left the house. (*See Tr.*, p.61, Ls.8-15, p.147, Ls.1-4.) The deputy testified that she told him nobody else

was in the house, and the man she had been with, “Junior Sanchez,” had become scared and ran out the back. (*See Tr.*, p.147, Ls.6-16.) Deputy Katseanes testified that he thought Ms. Williams was covering up for whoever was still in the house, and he announced over the PA that they knew Mr. Santos-Quintero was still inside. (*See Tr.*, p.149, L.21 – p.150, L.9.)

The officers called the STAR team (the local equivalent to a SWAT team) to the scene. (*See Tr.*, p.152, Ls.10-18.) Meanwhile, Deputy Van Orden went to the back of the house, to watch the back door. (*See Tr.*, p.63, Ls.5-14, p.99, Ls.7-12.) He testified that, after Ms. Williams left the house, he saw someone peek out from the back door. (*See Tr.*, p.105, L.3 – p.106, L.10.) Deputy Van Orden moved towards the door and yelled several times to have the figure come out with hands up. (*See Tr.*, p.106, L.15 – p.107, L.7.)

Sergeant Howell testified that, when he ran to the back of the house after hearing Deputy Van Orden yelling, he was shot from the open door. (*See Tr.*, p.63, L.11 – p.65, L.25.) Deputy Van Orden testified that he heard the shots and saw puffs of smoke from the open back door. (*See Tr.*, p.107, L.12 – p.108, L.6.) He testified that he returned fire, and heard Sergeant Howell grunt. (*See Tr.*, p.113, L.11 – p.114, L.16.) Deputy Van Orden moved Sergeant Howell away from the back of the house. (*See Tr.*, p.67, L.22 – p.68, L.6, p.117, L.14 – p.118, L.12.)

Sergeant Howell had a gunshot wound to his abdomen, and the bullet went through the L3 vertebra in his spine. (*See Tr.*, p.397, L.4 – p.400, L.9.) At the bench trial, Sergeant Howell testified that he had high blood pressure from the bullet striking his left kidney, a chip in his spine, and daily pain. (*See Tr.*, p.81, Ls.17-25.) He testified that the bullet came from a 9mm firearm. (*See Tr.*, p.77, Ls.2-13.)

Deputy Van Orden testified that, after he returned to the back of the house, another series of gunshots came from the house. (*See Tr.*, p.119, Ls.17-23.) Additional law enforcement

officers arrived at the house, including negotiators. (*See Tr.*, p.119, L.24 – p.121, L.12.) Lieutenant Foster of the Bonneville County Sheriff’s Office testified that he communicated with the suspect using Detective Sergeant Noah’s cell phone, in an attempt to get the suspect to surrender. (*See Tr.*, p.314, L.12 – p.315, L.14.) Lieutenant Foster testified that Mr. Santos-Quintero was at first unwilling to surrender, because he was afraid they would shoot him since he shot a police officer. (*See Tr.*, p.315, Ls.15-20.) The lieutenant testified that the officers referred to Mr. Santos-Quintero as “Junior” during the phone conversations. (*See Tr.*, p.318, Ls.3-16.) Detective Sergeant Noah testified that “Junior” mentioned he had shot an officer several times throughout the negotiations. (*See Tr.*, p.342, Ls.3-23.) Lieutenant Foster testified that Mr. Santos-Quintero requested to speak with Ms. Williams, and mentioned he had a gun that he had tossed in the kitchen. (*See Tr.*, p.321, Ls.4-24.)

Mr. Santos-Quintero’s stepfather testified that he received a phone call from Mr. Santos-Quintero on the day of the incident, and a detective later interviewed him about the call. (*See Tr.*, p.385, L.17 – p.386, L.12.) The stepfather testified that Mr. Santos-Quintero said he was afraid they were going to kill him. (*See Tr.*, p.387, Ls.4-11.) According to the stepfather, Mr. Santos-Quintero admitted that he might have shot a cop. (*See Tr.*, p.392, Ls.3-5.)

The negotiations were ultimately successful, and the suspect agreed to surrender. (*See Tr.*, p.168, Ls.10-14.) When Mr. Santos-Quintero came out of the back door, Deputy Katseanes tackled him, handcuffed him, and turned him over to the negotiators. (*See Tr.*, p.168, L.23 – p.169, L.24.) Afterwards, an officer cleared the crawlspace in the house, and did not find anyone there. (*See Tr.*, p.282, L.12 – p.284, L.3.) In the kitchen of the house, officers found a Ruger 9mm pistol and empty 9mm shell casings. (*See Tr.*, p.126, L.25 – p.127, L.10, p.171, L.25 –

p.172, L.20, p368, Ls.11-20.) Britany Wylie, a forensic scientist with the Idaho State Police, testified that the pistol shot the bullet that hit Sergeant Howell. (*See Tr.*, p.415, Ls.10-13.)

Detective Tuttle with the Idaho State Police testified that officers determined Mr. Santos-Quintero had used the Ruger pistol, because he was the only other person in the house and the bullet retrieved from Sergeant Howell matched the gun. (*See Tr.*, p.368, L.23 – p.369, L.5.) However, Detective Tuttle testified on cross-examination that he did not know if any fingerprint analysis had been done on the gun. (*See Tr.*, p.375, Ls.12-16.) Deputy Kasternes testified on cross-examination that he did not know if any gun-residue testing or other testing had been done on Mr. Santos-Quintero to determine if he had fired a gun. (*See Tr.*, p.185, Ls.11-17.) On cross-examination, Sergeant Detective Noah testified that no residue swab had been done to determine if Mr. Santos-Quintero had fired a weapon. (*See Tr.*, p.349, Ls.9-19.)

The State charged Mr. Santos-Quintero with felony aggravated battery upon certain personnel (peace officer); two counts of aggravated assault upon certain personnel (peace officer); unlawful possession of a firearm; and grand theft by receiving/possessing stolen property. (R., pp.52-54.) The State also charged him with use of a firearm or deadly weapon during the commission of a crime and persistent violator sentencing enhancements. (R., pp.55-58.) Mr. Santos-Quintero entered a not guilty plea to the charges. (R., pp.76-79.)

Mr. Santos-Quintero waived his right to trial by jury and elected to have a bench trial. (R., p.211.) At the bench trial, the State called Ms. Williams, who had use immunity providing that her testimony could not be used against her in her pending Bonneville County cases. (*See Tr.*, p.232, L.11 – p.235, L.17.) She was under a subpoena from the State. (*See Tr.*, p.325, Ls.23-25.) However, she stated “on record that I am not testifying.” (Tr., p.236, Ls.1-3.) She understood that, if she refused the district court’s order to testify, she would be held in contempt

of court. (Tr., p.236, Ls.4-10.) Despite the court's orders to have her testify and answer, Ms. Williams refused to answer the thirteen questions posed by the State. (See Tr., p.236, L.15 – p.243, L.18.) On Ms. Williams' unavailability, the district court determined, "given her refusal to answer the questions and the Court having ordered those answers, that witness is unavailable" under Idaho Rule of Evidence 804. (See Tr., p.244, Ls.10-21.)

In lieu of Ms. Williams' testimony, the State called Detective Medrano from the Bonneville County Sheriff's Office to the stand. (See Tr., p.244, L.23 – p.245, L.22.) Detective Medrano testified that she had interviewed Ms. Williams three times. (See Tr., p.246, L.11 – p.247, L.19.) The State asked Detective Medrano about what Ms. Williams had said with respect to being at her mother's house on the day of the incident, and Mr. Santos-Quintero objected based on hearsay. (See Tr., p.247, L.24 – p.248, L.7.) The State argued, "this fits within the rule of an unavailable witness." (Tr., p.248, Ls.9-10.)

The district court decided it would hear Detective Medrano's testimony, to determine whether the testimony fit the hearsay exceptions for statements of an unavailable witness under Idaho Rule of Evidence 804(b)(3), covering statements against interest, or Rule 804(b)(6), the catchall exception. (See Tr., p.248, L.25 – p.249, L.5, p.252, Ls.15-18.) The court stated: "And then, if I determine that it's admissible under those, then the Court would consider it. If it's not admissible, then the Court would not consider that in its decision." (Tr., p.252, Ls.19-22.) The State contended, "under [Rule 804(b)](3) she has ongoing cases, which is a statement against interest." (Tr., p.252, Ls.23-25.)

Detective Medrano then answered the State's questions as follows:

Q. Detective, around September 21st of 2018, when you interviewed Ms. Williams, did she mention anything about her being with Juan Santos-Quintero at [her] mother's house?

...

A. She did.

Q. And what was that?

A. She said that they got there. Prior, they had been up in Wolverine Canyon. And they drove down, and there was a—they had pulled off to the side and had done some target-practicing.

And then a guy was following them, and that's why they went to her mother's house.

Q. Okay. When they were target-practicing, did she say who was shooting a gun?

A. She said that Juan was the one that shot the gun.

Q. Did she say anything about how long they were target-practicing for?

A. She said he fired three shots.

Q. Not to sound redundant, did [s]he ever say specifically that she saw Juan with a firearm?

A. She said she did not. She didn't like guns, so she was smoking while he was shooting.

Q. Did she talk about where the firearm came from?

A. I asked her about where the—the firearm came from, yeah.

Q. And what was her response?

A. We had had a firearm stolen in—at the Walmart parking lot in Idaho Falls in Bonneville County. And so I asked her if she was there with him.

Initially, she wouldn't admit to it. But she did say, yeah, that we would see her on video in the vehicle in that parking lot and that he did go to a vehicle. But she said she didn't know what he took.

Q. And that was at the Ammon Walmart?

A. Yes.

Q. Did she mention about—anything about anybody else being with them in the car?

A. I don't believe so.

Q. It was just the two of them?

A. As far as—yeah, I believe so.

Q. Did she refer to Juan Santos-Quintero as any other name?

A. “Mono” is what she would call him.

Q. Did she ever clarify that that was Juan Santos-Quintero?

A. Yes, she did.

(Tr., p.254, L.11 – p.256, L.9.) On cross-examination, Detective Medrano testified that Ms. Williams did not say that she took the firearm. (*See* Tr., p.256, Ls.19-22.)

On statements against interest under Rule 804(b)(3), the State argued Ms. Williams’ statements were supported by corroborating circumstances that indicated their trustworthiness, as required by Rule 804(b)(3)(B). (*See* Tr., p.258, L.22 – p.259, L.18.) Additionally, the State contended the statements were admissible under Rule 804(b)(6). (*See* Tr., p.259, L.19 – p.261, L.19.) Mr. Santos-Quintero asserted the corroborating circumstances provision of Rule 804(b)(3)(B) was not applicable, because Ms. Williams was not “offering some kind of corroborating evidence.” (*See* Tr., p.261, L.24 – p.262, L.16.) He also asserted there were no circumstantial guarantees of trustworthiness, as required by Rule 804(b)(6). (*See* Tr., p.263, L.19 – p.264, L.5.) Further, the evidence did not add anything to the grand theft charge. (*See* Tr., p.265, Ls.2-20.)

The district court’s understanding of the evidence was that Ms. Williams “corroborates that she was at Wolverine with the defendant; that somebody was following them; that they went to her mother’s home.” (*See* Tr., p.270, Ls.7-10.) The court stated: “And the main thing that I take from this is that she’s identifying the defendant by name. And then you also have that one element as to the ‘knowing that the property was stolen’ issue. So those are the two material

facts that I think come out through this testimony that may be relevant.” (Tr., p.270, Ls.11-16.) The district court determined, “So I think that testimony goes to identity as to all counts and it goes to the issue of whether . . . the handgun was stolen or not and the reasonable belief that one would have that it was—or circumstances that a person would know that it was stolen.” (Tr., p.270, Ls.18-22.) The court then stated it would reserve ruling on Detective Medrano’s testimony until it heard the other evidence. (Tr., p.272, Ls.1-8.)

Right before the State rested, the district court determined, “Having reviewed the testimony of the detective, the unavailability of Denise Williams under 804, the Court does find that she was unavailable and that the exception under (b)(3) applies.” (Tr., p.422, Ls.8-11.) Per the court, “Under (b)(3)(A), I note that the requirements under (b)—under 3(A) are in the disjunctive.” (Tr., p.422, Ls.12-13.) The district court then determined, “the statement that Ms. Williams made to the detective is a statement that a reasonable person in the declarant’s position would have made only if the person believed it to be true because, when made, it tended to expose the declarant to civil or criminal liability.” (Tr., p.422, Ls.14-18.) The court continued: “In this case, the statements that she issued could expose her to criminal liability. And, therefore, the Court finds that exception to apply. So the Court will consider the testimony of Detective Medrano . . . .” (Tr., p.422, Ls.19-23.)

The district court found Mr. Santos-Quintero guilty on all five counts, and also found that he was a persistent violator. (*See* Tr., p.445, L.19 – p.460, L.25.) The court found Mr. Santos-Quintero not guilty on the use of a deadly weapon sentencing enhancement, because no date had been listed in Part II of the Information. (*See* Tr., p.461, L.1 – p.462, L.6.) The district court imposed an aggregate sentence of life imprisonment, with twenty-seven years fixed. (*See* R., pp.275-78.) Mr. Santos-Quintero filed a timely Notice of Appeal. (R., pp.279-81.)

ISSUE

Did the district court abuse its discretion when it admitted Detective Medrano's testimony describing Ms. Williams' statements, because the district court applied a wrong standard to determine whether the statements should be admitted?

## ARGUMENT

### The District Court Abused Its Discretion When It Admitted Detective Medrano's Testimony Describing Ms. Williams' Statements, Because The District Court Applied A Wrong Standard To Determine Whether The Statements Should Be Admitted

#### A. Introduction

Mr. Santos-Quintero asserts the district court abused its discretion when it admitted Detective Medrano's testimony describing Ms. Williams' statements, because the district court applied a wrong standard to determine whether the statements should be admitted. Idaho Rule of Evidence 804(b)(3)(B) requires that statements against criminal interest from an unavailable declarant in a criminal case be supported by corroborating circumstances that clearly indicate their trustworthiness. However, the district court did not identify any corroborating circumstances supporting the statements, and erroneously determined that requirement did not apply. Thus, the district court did not act consistently with the applicable legal standards. The State will be unable to prove that the district court's abuse of discretion in admitting Detective Medrano's testimony describing Ms. Williams' statements is harmless beyond a reasonable doubt.

#### B. Standard Of Review

"When reviewing the trial court's evidentiary rulings, this Court applies an abuse of discretion standard." *State v. Anderson*, 162 Idaho 610, 614 (2017). An appellate court reviewing an alleged abuse of discretion by a trial court inquires into whether the trial court: (1) correctly perceived the issue as one of discretion; (2) acted within the outer boundaries of its discretion; (3) acted consistently with the legal standards applicable to the specific choices

available to it; and (4) reached its decision by the exercise of reason. *Lunneborg v. My Fun Life*, 163 Idaho 856, 863 (2018).

C. The District Court Did Not Act Consistently With The Applicable Legal Standards, Because It Did Not Identify Any Corroborating Circumstances Supporting The Statements, And Erroneously Determined That Requirement Did Not Apply

The district court did not act consistently with the applicable legal standards when it admitted Detective Medrano's testimony describing Ms. Williams' statements. Rule 804(b)(3)(B) requires that statements against criminal interest from an unavailable declarant in a criminal case be supported by corroborating circumstances that clearly indicate their trustworthiness. Here, the district court did not identify any corroborating circumstances supporting Ms. Williams' statements, and erroneously determined that requirement did not apply.

The Idaho Rules of Evidence define "hearsay" as a statement that "the declarant does not make while testifying at the current trial or hearing," and "a party offers in evidence to prove the truth of the matter asserted in the statement." I.R.E. 801(c).<sup>2</sup> "Hearsay is not admissible except as provided by these rules or other rules promulgated by the Supreme Court of Idaho." I.R.E. 802.

There are exceptions to the rule against hearsay for situations when the declarant is unavailable as a witness. I.R.E. 804. As is relevant here, "A declarant is considered to be unavailable as a witness if the declarant . . . refuses to testify about the subject matter despite a court order to do so." I.R.E. 804(a)(2). A "statement against interest" is "not excluded by the rule against hearsay if the declarant is unavailable as a witness," where the statement is one that

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<sup>2</sup> A "statement" is "a person's oral assertion, written assertion, or nonverbal conduct, if the person intended it as an assertion," and a "declarant" is "the person who made the statement." I.R.E. 801(a) & (b).

(A) a reasonable person in the declarant's position would have made only if the person believed it to be true because, when made, it was so contrary to the declarant's proprietary or pecuniary interest or had so great a tendency to invalidate the declarant's claim against someone else or to expose the declarant to civil or criminal liability; and

(B) is supported by corroborating circumstances that clearly indicate its trustworthiness, if it is offered in a criminal case as one that tends to expose the declarant to criminal liability.

I.R.E. 804(b)(3).

As the Idaho Supreme Court has held, "These corroborating circumstances are necessary and must 'clearly indicate the trustworthiness of the statement.'" *State v. Meister*, 148 Idaho 236, 242 (2009) (quoting *State v. Priest*, 128 Idaho 6, 16-17 (Ct. App. 1995)). The Court in *Meister* observed that the "Arizona supreme court established seven factors for determining the reliability and corroboration of a statement subjected to the hearsay exception established in 804(b)(3)." *Id.* (citing *State v. LaGrand*, 734 P.2d 563, 570 (1987)) (footnote omitted). The Arizona Supreme Court in *LaGrand* "ultimately held that a judge's inquiry, made to assure himself [or herself] that the corroboration requirement of Rule 804(b)(3) has been satisfied, should be limited to asking whether evidence in the record corroborating and contradicting the declarant's statement would permit a reasonable person to believe that the statement could be true." *Id.* (quoting *LaGrand*, 734 P.2d at 570) (alteration and emphasis in original). The Idaho Supreme Court in *Meister* adopted "Arizona's standard and seven factor test for the corroboration requirement pursuant to I.R.E. 804(b)(3)." *Id.*

The seven factors are: (1) whether the declarant is unavailable; (2) whether the statement is against the declarant's interest; (3) whether corroborating circumstances exist which clearly indicate the trustworthiness of the exculpatory statement, taking into account contradictory evidence, the relationship between the declarant and the defendant; (4) whether the declarant has

issued the statement multiple times; (5) whether a significant amount of time has passed between the incident and the statement; (6) whether the declarant will benefit from making the statement; and (7) whether the psychological and physical surroundings could affect the statement. *Id.* at 242 n.7 (citing *LaGrand*, 734 P.2d at 569-70).

In *Meister*, a murder and conspiracy to commit murder case, the defendant attempted at trial to admit evidence that another individual was the actual perpetrator of the crime, including the other person's confessions. *See id.* at 238-39. The district court refused to admit the alternate perpetrator evidence, based on the standard set in *State v. Larsen*, 91 Idaho 42 (1966), requiring a defendant to produce a train of facts or circumstances that tended to clearly point out someone besides the defendant as the guilty party. *See Meister*, 148 Idaho at 240 (quoting *Larsen*, 91 Idaho at 47-48). On appeal, the Idaho Supreme Court held that the adoption of the Idaho Rules of Evidence in 1985 implicitly overruled *Larsen*. *Id.* The *Meister* Court held that Rule 403 was the controlling authority for the admissibility of alternate perpetrator evidence. *See id.* at 240-41. Because the district court did not address whether the alternate perpetrator evidence was relevant and admissible pursuant to Rules 401, 402, and 403, the district court abused its discretion by applying the wrong standard for admissibility of alternate perpetrator evidence. *See id.* at 241. Thus, the Court granted the defendant a new trial. *Id.*

Regarding the other person's confessions, the *Meister* Court held that the district court's application of *Larsen* was "incorrect because it was implicitly overruled by this Court's adoption of the Idaho Rules of Evidence," and whether the confessions "should have been admitted is dictated by I.R.E. 401, 402, 403 and 804(b)(3)." *Id.* The district court, when it determined the defendant could not call the other person or witnesses who had heard the confessions, only cited to *Larsen* as authority. *See id.* at 243. The *Meister* Court noted: "Although the district court

applied the wrong standard to determine whether the statements were admissible, the district court did make a finding that the evidence presented in the offer of proof did not sufficiently corroborate the evidence. Therefore, the district court correctly found that some corroboration is necessary in order for the statements to be admissible.” *Id.* at 243. The Court held, “The district court applied the wrong standard to determine whether [the other person’s] confessions should be excluded.” *Id.*

In the instant case, the district court similarly applied a wrong standard to determine whether Ms. Williams’ statements should be admitted. In admitting Detective Medrano’s testimony describing the statements, the district court did not ensure that the corroboration requirement of Rule 804(b)(3) had been satisfied. The district court did not identify any corroborating circumstances supporting Ms. Williams’ statements that clearly indicated the trustworthiness of the statements. (*See* Tr., p.422, Ls.8-21.) Rather, the district court erroneously determined, “Under (b)(3)(A), I note that the requirements under (b)—under (3)(A) are in the disjunctive.” (Tr., p.422, Ls.12-13.) The district court then examined the statements solely under Rule 804(b)(3)(A); “the statement that Ms. Williams made to the detective is a statement that a reasonable person in the declarant’s position would have made only if the person believed it to be true, because, when made, it tended to expose the declarant to civil or criminal liability.” (Tr., p.422, Ls.14-18.) The district court determined that “the statements that she issued could expose her to criminal liability,” and therefore determined that Rule 804(b)(3) applied and the court would consider Detective Medrano’s testimony describing Ms. Williams’ statements. (*See* Tr., p.422, Ls.19-23.)

However, Rule 804(b)(3) is not disjunctive in a criminal case where the statement is against the declarant’s criminal interest, but conjunctive: both the against criminal interest

requirement under subsection (A) and the corroboration requirement under subsection (B) must be satisfied. I.R.E. 804(b)(3)(A) & (B). Put otherwise, the “corroborating circumstances are necessary and must ‘clearly indicate the trustworthiness of the statement.’” *Meister*, 148 Idaho at 242 (quoting *Priest*, 128 Idaho at 16-17). Thus, because the district court here did not ensure that the corroboration requirement was satisfied, the district court did not act consistently with the applicable legal standards. The district court therefore abused its discretion when it admitted Detective Medrano’s testimony describing Ms. Williams’ statements, because the district court applied a wrong standard to determine whether the statements should be admitted.

D. The State Will Be Unable To Prove That The Error Is Harmless

Where alleged error is followed by a contemporaneous objection and the appellant shows that a violation occurred, the State bears the burden of proving the error was harmless beyond a reasonable doubt, based upon the test articulated by the United States Supreme Court in *Chapman v. California*, 386 U.S. 18 (1967). *See State v. Perry*, 150 Idaho 209, 227 (2010). “To hold an error as harmless, an appellate court must declare a belief, beyond a reasonable doubt, that there was no reasonable possibility that such evidence complained of contributed to the conviction.” *State v. Sharp*, 101 Idaho 498, 507 (1980) (citing *Chapman*, 386 U.S. at 24).

Mr. Santos-Quintero asserts the State will simply be unable to show the district court’s error in admitting Detective Medrano’s testimony describing Ms. Williams’ statements is harmless beyond a reasonable doubt. Thus, the district court’s judgment of conviction should be vacated, and the matter should be remanded to the district court for a new trial. *See Meister*, 148 Idaho at 241, 243.

CONCLUSION

For the above reasons, Mr. Santos-Quintero respectfully requests that this Court vacate the district court's judgment of conviction, and remand this matter to the district court for a new trial.

DATED this 29<sup>th</sup> day of July, 2020.

/s/ Ben P. McGreevy  
BEN P. MCGREEVY  
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29<sup>th</sup> day of July, 2020, I caused a true and correct copy of the foregoing APPELLANT'S BRIEF, to be served as follows:

KENNETH K. JORGENSEN  
DEPUTY ATTORNEY GENERAL  
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/s/ Evan A. Smith  
EVAN A. SMITH  
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BPM/eas