

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 45352

STATE OF IDAHO,)
)
 Plaintiff-Respondent,)
)
 v.)
)
 JOSE MANUEL PRATER,)
)
 Defendant-Appellant.)
)
)

Appeal from the District Court of the Third Judicial District, State of Idaho, Canyon County. Hon. George A. Southworth, District Judge.

Eric D. Fredericksen, State Appellate Public Defender; Jenevieve C. Swinford, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

Jose Manuel Prater appeals from his conviction for domestic battery in the presence of children. He asserts the district court abused its discretion by admitting the victim's prior consistent statements to rebut a charge of recent fabrication. Generally hearsay, which is an out-of-court statement admitted for the truth of the matter asserted, is inadmissible. There are exceptions to this general rule and certain statements, such as prior consistent statements to rebut a charge of fabrication, are permissible in certain circumstances. To admit a prior consistent statement, the declarant must have made it before he or she has the motive to lie.

In this case, Prater implied that the victim fabricated the battery because she was angry Prater had called the police to report her for driving under the influence. At trial, the prosecutor introduced statements made by the victim to her sister and the officer who took the victim's statement. Prater objected on the basis the statements were inadmissible hearsay. The district court overruled the objections and allowed the statements of the victim to be admitted based on the prior consistent statement rule. Prater contends this was an abuse of discretion because the victim had a motive to lie about the battery once Prater called the police, and the statements were made subsequent to that event.