

# State v. Gibson (PFR)

**Case Number**

S-17-1272

**Case Audio**

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**Call Date**

March 28, 2019

**Case Time**

9:30 AM

**Court Number**

Sarpy

**Case Location**

Creighton

**Court Type**

District Court

**Case Summary**

Douglas County District Court, Judge Stefanie A. Martinez

Attorneys: Phil Kleine (County Attorney's Office) (for Appellant State of Nebraska) --- Donald L. Schense (Law Office of Donald L. Schense) (for Appellee Jason Gibson)

Criminal: Plea; attempted sexual assault of a child; excessively lenient sentence

Proceedings below: Gibson was convicted based on his plea of no contest and sentenced to 180 days in jail with five years of probation to follow the completion of the jail time. The State appealed the sentence as excessively lenient. On appeal, the Court of Appeals vacated the sentence and remanded the case. Gibson filed a petition for further review, which was granted by the Nebraska Supreme Court.

Issues: The Court of Appeals erred in 1) finding that the district court abused its discretion by imposing an excessively lenient sentence, 2) finding that the district court considered an irrelevant factor when imposing sentence upon Gibson, and 3) vacating the district court's sentence and remanding the cause back to the district court with direction that a different district court judge to impose a greater sentence.

**Schedule Code**

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