

# Spokane Chronicle

Spokane, Washington

FINAL EDITION  
WEDNESDAY

May 9, 1984  
98th year/No. 198  
25 cents

## Guidelines issued for using hypnosis

BOISE (AP) — Declaring that any reliable witness should be allowed to present facts in his possession during a trial, the Idaho Supreme court has set down guidelines for the admissibility of hypnotically induced or enhanced testimony in criminal cases.

"There needs to be some method of determining the admissibility of this type of testimony that will protect against the dangers of hypnosis, particularly the dangers of cueing and confabulation, and yet allow for receipt of the benefits of memory recall which hypnosis can produce," Justice Robert Bakes said in the majority opinion.

Justice Stephen Bistline dissented from that part of the decision, contending that knowledge about hypnosis is still too sketchy for the court to lay down a specific rule es-

pecially in view of "overwhelming documentation" about the unreliability of hypnotized witnesses.

The majority decision, which leaves the admission of such testimony to trial judges tempered by the high court's own safeguards, came Monday as the court reversed the 1981 second-degree kidnapping conviction of Juanita Iwakiri of Boise. She had had been accused of concealing at her day-care center the children of a San Bernadino, Calif., woman who had been murdered in her home in 1977.

Iwakiri, who was never linked to the murder, had maintained her innocence throughout the ordeal, and after serving four-months of a five-year prison term she was released in late 1981, and her conviction later was reduced to a misdemeanor.

The children, Tiffani Wise and

her half-sister Brandi Summers, have never been located. Iwakiri has maintained that she was caring for two different, although physically similar, children.

The majority, in ordering a new trial in her case, overturned the originally verdict on grounds that the trial court erred in allowing an attorney to whom Iwakiri had spoken on several occasions to testify about those conversations at the trial.

It was after reversing the conviction and ordering a new trial on that point that the court provided its guidelines on hypnosis, noting that a key prosecution witness had been hypnotized prior to testifying in court that she had seen the two children at Iwakiri's home along with their father.

While acknowledging problems

with hypnosis, the majority held that the "trend of law in other jurisdictions in favor of a general rule of competency, which leaves to the discretion of the trial court the determination of whether circumstances render the witness incompetent, has been evolving over the last century."

\* After rejecting other judicial theories on hypnotic testimony as too exclusionary, the court adopted what it called a "totality of the circumstances" test.

Under it, the trial judge in a case where a hypnotized witness is to be called will hold a special hearing to determine whether in view of all the circumstances including compliance with the high court's safeguards, the proposed testimony is sufficiently reliable to merit admission.