

SUMMARY STATEMENT

State v. McKean, Docket No. 41004

The Idaho Supreme Court affirmed the judgments of conviction entered by the district court of Canyon County against Shannon McKean following a jury verdict finding her guilty of five counts of possession of a controlled substance and two counts of aiding and abetting delivery of a controlled substance.

The Idaho Supreme Court held that the substance AM-2201 found in “spice” products that McKean possessed and sold was a controlled substance as a matter of law under the 2011 version of Idaho Code section 37-2705(d)(30). In reaching this conclusion, the Supreme Court overruled the Court of Appeals’ decision in *State v. Alley*, 155 Idaho 972, 318 P.3d 962 (Ct. App. 2014), which held the question whether AM-2201 is a controlled substance is a question of fact, not of law.

The Supreme Court also held that the district court properly excluded evidence of laboratory reports from the distributors from whom McKean purchased the substances. The reports stated that the products did not contain synthetic cannabinoids. Because McKean testified that she believed that the reports showed that it was legal to possess the substances rather than identifying the substances she purchased, the Supreme Court found that the district court correctly determined that the evidence tended to show a mistake of law rather than a mistake of fact and was therefore inadmissible.