

## SUMMARY STATEMENT

*State v. Fox*

Docket Nos. 45832-2018, 45833-2018, 45834-2018, & 45835-2018

The Idaho Supreme Court affirmed Matthew Michael Fox's judgments of conviction and sentences.

Fox appealed from his convictions for robbery, aggravated battery, possession of marijuana, and possession of methamphetamine. Fox challenged the district court's denial of his motion to sever, arguing the charges against him were not based on the same act or transaction or part of a common scheme or plan. Next, Fox contended the district court improperly admitted 404(b) evidence and hearsay statements. Additionally, Fox argued the district court erred in denying his motion for a mistrial, arguing the trial was compromised when a witness impermissibly testified that Fox was involved in additional criminal activity. Fox also argued that the State committed prosecutorial misconduct by misrepresenting the evidence in closing argument. Finally, Fox claimed the district court abused its discretion in sentencing Fox in several cases and subsequently denying Fox's motions for reduction of the sentence imposed in each of the cases.

The Idaho Supreme Court affirmed the judgments of conviction. First, the Court explained that the plain language of Idaho Criminal Rule 8(a) provides three bases for joinder and that the charges against Fox were properly joined because they were sufficiently connected together. Second, the Court concluded that the district court did not err in denying Fox's motion to sever because Fox failed to establish how joining the charges prejudiced him. Third, the Court determined that the district court erred in admitting the State's 404(b) evidence, however, the error was harmless. Fourth, the Court concluded that the district court did not err in denying Fox's motion for mistrial because although the district court erred in overruling an objection to a witness's testimony related to additional criminal activity, the district court's error was harmless. Fifth, the Court determined that an officer's body camera video was properly admitted under the excited utterance exception, but the district court erred in admitting an audio recording of a 911 call because it did not fall within the excited utterance exception. The Court explained the erroneous admission was harmless. Sixth, the Court determined that the district court erred in overruling an objection to some of the prosecutor's statements during closing argument, but again determined the error was harmless. Seventh, the Court assessed the impact of all of the errors under the cumulative error doctrine and determined they did not deprive Fox of a fair trial. Finally, the Court concluded that the district court did not abuse its discretion when it sentenced Fox and when it denied Fox's Rule 35 motions for a reduction of sentence.

\*\*\*This summary constitutes no part of the opinion of the Court, but has been prepared by court staff for the convenience of the public.\*\*\*