

## SUMMARY STATEMENT

*State of Idaho v. Russell Allen Passons*

Docket No. 47124

In this case arising out of Kootenai County, the Court of Appeals affirmed the district court's judgment summarily dismissing Russell Allen Passons' petition for post-conviction relief. In the underlying criminal case, Passons asked that appointed counsel withdraw, waived his right to counsel, and represented himself for a period of time during which the trial court ordered counsel to remain as standby counsel. Passons' subsequent request to have counsel reappointed was granted. Ultimately, a jury found Passons guilty of one count of burglary and two counts of aggravated battery on an officer, and the trial court found Passons guilty of a sentencing enhancement. Passons filed a petition for post-conviction relief, which the district court summarily dismissed pursuant to the State's motion.

On appeal, Passons argued that the district court erred in summarily dismissing his petition for post-conviction relief, asserting he was deprived of his right to self-representation because he lacked resources and his waiver of the right to self-representation was invalid; his standby counsel rendered ineffective assistance; his trial counsel rendered ineffective assistance; his counsel had a conflict of interest; and the errors he claimed in his post-conviction appeal, combined with the errors he sought to establish on direct appeal, constituted cumulative error.

The Court of Appeals held that: (1) Passons failed to preserve his argument that he was deprived of his right to self-representation due to a lack of resources; (2) the trial court did not invalidate Passons' waiver of the right to self-representation by questioning his decision to represent himself and was not required to find that his waiver was intelligent and knowing; (3) criminal defendants cannot claim ineffective assistance of standby counsel because they lack a constitutional right to standby counsel; (4) Passons failed to establish a genuine issue of material fact as to any of his ineffective assistance of counsel claims, some of which were not preserved for appeal; (5) Passons failed to establish any conflict of interest; (6) and Passons failed to show cumulative error.

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