

## SUMMARY STATEMENT

*State v. Scott Patrick Damiani*

Docket No. 47610

Scott Patrick Damiani lived at the Ada County Work Release Facility. The lobby contains lockers for individuals to store medicine. Damiani found a key to another person's locker. Damiani used the key and took some medication from the locker and, after going into another room, returned the medicine bottle to the locker and returned the key to a deputy. After the key was returned to its owner, that individual told a deputy that some medication was missing. Damiani was charged with burglary, petit theft, and possession of a controlled substance.

Damiani's case proceeded to trial. Damiani moved for judgment of acquittal, contending that the facility lobby is not a "room" within the meaning of the burglary statute as it has open access and no expectation of privacy. The district court denied the motion and instructed the jury that a "room" within the statute is "a portion of a space within a building or other structure separated by walls or partitions from other parts." The jury convicted Damiani on all charges.

On appeal, Damiani contends that the district court erred in denying his motion for judgment of acquittal and by instructing the jury on the definition of "room" under the burglary statute. The Court of Appeals affirmed the district court, holding that the plain and ordinary meaning of the word "room" is unambiguous and is consistent with the definitional instruction given by the district court to the jury.

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