

## **SUMMARY STATEMENT**

*State of Idaho v. David Alexander Kropp*

Docket No. 47713

In this case arising out of Kootenai County, the Court of Appeals affirmed David Alexander Kropp's judgment of conviction for three counts of burglary. At the beginning of the second day of trial, Kropp and his alibi witness were not present. Kropp's counsel moved to continue the trial. The district court found that Kropp's absence was voluntary and denied the motion to continue. Later that day, Kropp's counsel relayed that Kropp would soon appear. After Kropp failed to appear, his counsel moved for a mistrial. The district court again found that Kropp's absence was voluntary and denied the motion for a mistrial. Ultimately, a jury found Kropp guilty of three counts of burglary. Kropp appealed.

On appeal, Kropp argued the district court erred in denying his motion to continue because he was involuntarily absent from trial and because his alibi witness was also not present for trial. The Court of Appeals concluded that, based on an independent view of the record, Kropp's absence had become voluntary, at the latest, by the time of the district court's second finding that Kropp's absence was voluntary. The Court of Appeals further held that Kropp failed to preserve his argument regarding the absence of his alibi witness. Consequently, the Court of Appeals affirmed Kropp's judgment of conviction.

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