

## **SUMMARY STATEMENT**

*State of Idaho v. Talon Scott Ross*  
Docket No. 47771

Talon Scott Ross was on probation. The terms of Ross's probation included the following provision: "you shall commit no violations of any law of the United States of America, or of any law of any other country, or of any law of any state, county, city, or other political subdivision." While on probation, Ross was charged with petit theft; he was acquitted of the charge following a jury trial. Thereafter, the State alleged Ross violated his probation by committing the crimes of petit theft and injury to a child. The district court found by a preponderance of the evidence that Ross violated his probation by committing the petit theft despite the judgment of acquittal. Similarly, the district court also found Ross committed an injury to a child. The district court revoked probation and ordered the previously suspended executed.

Ross appealed arguing that the district court erred in finding he violated the law by committing a petit theft when he had been acquitted of the charge. Ross also argued the district court erred in finding he committed an injury to a child because there was insufficient evidence that Ross acted willfully.

The Court of Appeals held that because of the different burdens of proof, an acquittal in a criminal prosecution does not bar finding a probation violation based on the same underlying conduct. The Court also concluded that Ross had been explicitly warned the previous day about the very circumstance that led to the injury to child charge. Based on that knowledge, Ross's failure to take affirmative steps to ensure his children were supervised while he slept was sufficient to establish that the Ross had knowledge of the danger when he left his children unsupervised, and thus acted willfully. The Court of Appeals affirmed the district court's revocation of probation and order to execute the previously suspended 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.\*\*\*