

## SUMMARY STATEMENT

*State v. Cuenca*

Docket. No. 49037

This appeal concerned whether the district court violated George Fernando Cuenca’s confrontation right under the Confrontation Clause of the Sixth Amendment when it ordered witnesses to wear medical masks while testifying in-court at trial. In the midst of the COVID-19 pandemic, and prior to empaneling the jury, the district court ordered that everyone in the courtroom at Cuenca’s trial would wear medical masks for the entire in-person trial. Cuenca objected that the jury would not be able to effectively assess the testifying witnesses’ demeanor, which impaired the jury’s ability to judge credibility. The district court overruled the objection, the trial proceeded, and the jury found Cuenca guilty of aggravated battery. Cuenca appealed, and argued that his conviction should be vacated, and his case remanded for a second trial because the district court’s mask order violated his confrontation right. The Idaho Supreme Court disagreed and affirmed Cuenca’s judgment of conviction. The Court explained that assuming the medical masks caused the absence of a “normal” or “traditional” “physical, face-to-face confrontation,” Cuenca’s confrontation right was not violated because under *Maryland v. Craig*, 497 U.S. 836 (1990), the order was necessary to further an important public policy and the reliability of the testimony was otherwise assured.

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