

**SUMMARY STATEMENT**  
*State of Idaho v. Jennifer L. Wenk*  
Docket No. 49878

In this case arising out of Gooding County, the Court of Appeals affirmed the district court's decision, on intermediate appeal from the magistrate court, reversing an order dismissing Jennifer L. Wenk's misdemeanor citation for harboring an at-risk dog. After receiving the citation following her dog's third alleged attack on another person or dog, Wenk filed a motion to dismiss, arguing that she could not violate the statute because her dog was not subject to a prior court order finding the animal "at-risk or dangerous." The magistrate court granted the motion to dismiss, but the district court reversed the dismissal on intermediate appeal.

On appeal from the district court's intermediate appellate decision, Wenk argued the district court erred in interpreting I.C. §§ 25-2810 and 25-2811 because a previous court order declaring a dog dangerous or at-risk is a condition precedent to imposing criminal liability under I.C. § 25-2810. Wenk further argued that imposing criminal liability without a previous court order would render the statute an unlawful strict liability crime.

The Court of Appeals held that a prior order declaring the dog dangerous or at-risk is not an element of I.C. § 25-2810 and that the statute passes constitutional muster. Specifically, the Court of Appeals determined that a prior court order is unnecessary for Wenk to knowingly possess an at-risk dog. Rather, the Court of Appeals concluded that liability for possession of an at-risk dog pursuant to I.C. § 25-2810 requires only that the dog at issue satisfies the definition of an "at-risk dog" and that the defendant owns, possesses, or harbors the dog. Consequently, Wenk failed to show error in the district court's order, on intermediate appeal from the magistrate court, reversing the dismissal of her misdemeanor citation for harboring an at-risk dog.

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