

SUMMARY STATEMENT

State of Idaho v. Dwayne Edward Best
Docket No. 50051

Dwayne Edward Best appealed from his conviction of possession with intent to deliver a controlled substance, trafficking in heroin, and unlawful possession of a firearm. On appeal, Best argued the district court erred when it denied Best's motion to suppress. Specifically, Best contended the district court erred in finding Best was on probation and consented to a Fourth Amendment waiver. Best further argued that the district court erred, during closing arguments, by precluding Best from arguing that the prosecutor could have charged differently and from commenting on the lack of officer body cam video. The State argued the issue regarding Best's probation and Fourth Amendment waiver was not preserved on appeal. The State further argued that the district court did not err in excluding argument regarding the charging decision and that the district court erred in precluding comment as to the lack of officer body cam video, but the error was harmless.

The Court of Appeals affirmed the conviction, holding the probation and Fourth Amendment waiver issue was not preserved on appeal. The Court rejected Best's claim that he need only raise the issue of a warrantless search in the district court to preserve his arguments on appeal. Best argued that he need not articulate, incident to the motion, his *position* as to why the evidence must be suppressed. However, the Court held that a party must raise both the issue and their position on that issue in the trial court, which defines the scope of the argument preserved for appeal.

The Court held that the district court did not err in excluding argument regarding the State's charging decision. Further, the Court held the district court erred in precluding argument regarding the lack of officer body cam video; however, the error was harmless.

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