

SUMMARY STATEMENT

State v. Kadence Dawn Marble
Docket No. 50239

This case concerns the interpretation of Idaho’s “frequenting” law, which makes it a misdemeanor for “any person to be present at or on premises of any place where he knows illegal controlled substances . . . are being held for distribution, transportation, delivery, administration, use, or to be given away.” I.C. § 37-2732(d). The State charged Kadence Dawn Marble, a passenger in a vehicle initially stopped for speeding, with violating section 37-2732(d) after she admitted to knowing there was marijuana in the vehicle. Marble filed a motion to dismiss, arguing that a moving vehicle is not a “premises of any place” under the frequenting statute. Alternatively, Marble argued the law was unconstitutionally vague as applied to her.

The magistrate court granted Marble’s motion to dismiss because another district court judge had ruled in an earlier case that a moving vehicle was not a place. On intermediate appeal, the district court reversed the magistrate court’s order and remanded the case, concluding Marble’s motion to dismiss was procedurally improper. Marble appealed the district court’s decision.

The Idaho Supreme Court held that the district court erred in concluding that Marble’s motion to dismiss was procedurally improper. Due to the conflicting interpretations of Idaho Code section 37-2732(d) by judges in the First Judicial District, the Idaho Supreme Court addressed the underlying issue and decided, as a matter of law, that a person in a moving vehicle may be “present in a place” for purposes of the frequenting statute. The Court looked to its former decision in *State v. Amstad*, 164 Idaho 403, 431 P.3d 238 (2018), where it held that a plain reading of the statute would include a vehicle in a parking lot. Extending the rationale from *Amstad*, the Court found that if a parked vehicle could be a place, the fact that it is moving does not change the analysis. Finally, the Court held that Idaho Code section 37-2732(d) was not unconstitutionally vague as applied because Marble had admitted knowing she was in a place where illicit substances were being used or transported and had smoked said illicit substances several hours earlier. Therefore, the Idaho Supreme Court remanded for further proceedings consistent with its opinion.

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