

## **SUMMARY STATEMENT**

*State of Idaho v. Michael Kermitt Nugent*  
Docket No. 50694

In this case arising out of Bannock County, the Court of Appeals affirmed Michael Kermitt Nugent's judgment of conviction and unified sentence of five years, with a minimum period of confinement of three years, for assault or battery upon certain personnel.

Nugent was in custody pending proceedings on a probation violation allegation in a prior case when he punched a jail deputy in the face. At sentencing, the district court determined that I.C. § 18-915(3) required imposition of a consecutive sentence. As a result, the district court imposed a unified sentence of five years, with a minimum period of confinement of three years, for the assault or battery upon certain personnel to run consecutively to the sentence in his probation violation case. On appeal, Nugent contends that the district court erred when it determined his sentence was statutorily required to run consecutively because his sentence in the prior case was not being "currently served" within the meaning of I.C. § 18-915(3). Nugent also argued that the district court abused its discretion when it imposed his sentence because the sentence was excessive considering any view of the facts and that the district court failed to adequately consider mitigating factors.

The Court of Appeals held that, because Nugent was serving a sentence when the district court imposed sentence in his prior case, I.C. § 18-915(3)(b) required that the sentence in the current case be consecutive. The Court of Appeals further held that, because the district court identified the correct legal standards, correctly perceived sentencing as a discretionary decision, acted within the boundaries of its discretion and exercised reason when imposing Nugent's sentence, he failed to show that the district court abused its sentencing discretion.

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