

SUMMARY STATEMENT

Creech v. State, Docket No. 51229

Thomas Eugene Creech appealed from the district court's order dismissing his successive post-conviction petition for relief as untimely. Creech was sentenced to death in 1995 for the murder of fellow inmate David Jensen. Creech argued that his death sentence, which was imposed by a judge without the participation of a jury, was unlawful based on the prohibition against cruel and unusual punishment under the U.S. Constitution and the Idaho Constitution. The district court dismissed Creech's petition as untimely under Idaho Code section 19-2719. The Idaho Supreme Court affirmed the district court's judgment. The Court held that the district court did not err in dismissing Creech's petition *sua sponte* because Idaho Code section 19-2719 permits *sua sponte* dismissals without notice in capital cases. The Court also held that Creech's successive post-conviction petition was untimely because there was no triggering event in the forty-two days preceding the successive petition for post-conviction relief. Finally, the Idaho Supreme Court denied Creech's motion to stay execution.

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