

SUMMARY STATEMENT
State of Idaho v. Dahlin J. Ewing
Docket No. 51368

In this case arising out of Ada County, the Court of Appeals affirmed the district court's order revoking Dahlin J. Ewing's probation and directing execution of his previously suspended sentence. Ewing pled guilty to enticing a child through the use of the internet or other communication device. The district court sentenced Ewing but, after a period of retained jurisdiction, suspended the sentence and placed Ewing on probation. Months later, the State filed a motion for probation violation, alleging Ewing violated his probation by contacting multiple juvenile females via social media, accessing pornography on his smartphone, failing to surrender the smartphone after purchasing a flip phone, and failing to pay court-ordered fines, fees, and costs. Pursuant to a disposition agreement, Ewing admitted to violating his probation by failing to pay fines, fees and costs, and the State dismissed the remaining allegations but retained the right to argue all facts in support of its sentencing recommendation. At the disposition hearing, the district court heard argument concerning the dismissed allegations. The district court acknowledged that Ewing admitted to a single violation but found that there was substantial evidence supporting the State's dismissed allegations. As a result, the district court revoked Ewing's probation and ordered execution of his previously suspended sentence.

On appeal, Ewing argued the district court abused its discretion when it revoked his probation because it based its decision primarily on allegations the State chose not to pursue. The Court disagreed and held that Ewing's argument was contrary to law and that the record showed the parties negotiated a resolution allowing the State to present evidence of Ewing's alleged probation violations while protecting him from making admissions that could be used against him in another case. Moreover, the Court concluded that the doctrine of invited error precluded Ewing from challenging on appeal a decision which he acquiesced to. Ewing also contended that, in light of the mitigating factors presented, the district court did not exercise reason in revoking his probation. The Court was unpersuaded and held that Ewing failed to establish that the district court erred in revoking his probation.

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