

## SUMMARY STATEMENT

*State v. Kilo J. LeVeque*

Docket No. 43877

Kilo J. LeVeque was convicted of burglary and possession of methamphetamine. The district court imposed concurrent sentences and retained jurisdiction. Following an initial period of retained jurisdiction, the district court suspended LeVeque's sentence and placed him on probation. It was later discovered that LeVeque was previously convicted of a sex offense in a different jurisdiction and consequently, LeVeque's terms of probation were amended. Subsequently, the district court found that LeVeque had willfully violated the terms of his probation, including failing a polygraph examination relating to his sexual history and being removed from sex offender treatment. The district court revoked probation and executed the underlying sentence, but again retained jurisdiction. In its probation violation disposition, the district court stated that LeVeque was to successfully complete another polygraph examination. At a jurisdictional review hearing, the district judge noted that LeVeque had not retaken the polygraph examination and relinquished jurisdiction.

LeVeque appealed arguing that the district court abused its discretion by revoking his probation and relinquishing jurisdiction. This Court held that the district court did not abuse its discretion by revoking LeVeque's probation. This Court further held that the district court erred in relinquishing jurisdiction because LeVeque had been placed in a classic penalty situation of completing the polygraph or relinquishment of jurisdiction, resulting in imprisonment. The order revoking probation was affirmed. The order relinquishing jurisdiction was reversed and the case was remanded for redetermination of that issue by a different judge.