

## SUMMARY STATEMENT

*Mark Black v. State of Idaho*

Docket No. 45432

Mark Black appeals from the district court's summary dismissal of his petition for post-conviction relief. Black asserted that Idaho's trafficking statute, Idaho Code § 37-2732B(a)(6)(B), is unconstitutional on nine separate grounds and his trial counsel rendered ineffective assistance of counsel in failing to file a motion to dismiss on that basis. The district court concluded that Black's constitutional challenge could have been raised on direct appeal and was forfeited pursuant to I.C. § 19-4901(b), and that Black failed to provide evidence that his trial counsel's performance was deficient. The Court of Appeals affirmed the district court, holding that Black's direct constitutional challenge could have been raised on direct appeal and was, therefore, forfeited in post-conviction proceedings. In addition, the Court agreed with the district court that Black had failed to provide any evidence that his trial counsel's failure to file a motion to dismiss was the result of inadequate preparation, ignorance of the relevant law, or other shortcomings capable of objective review such that trial counsel's performance was outside the prevailing legal standards at the time as required by the Idaho Supreme Court in *Wurdemann v. State*, 161 Idaho 713, 390 P.3d 474 (2017).