

## SUMMARY STATEMENT

*State v. Miller*

Docket No. 46517

In an appeal arising out of Kootenai County, Gregg James Miller challenged his convictions for injury to a child and felony eluding. As to the injury to a child conviction, Miller argued the jury instruction, combined with the prosecutor's closing argument, created a fatal variance with the information. Miller also argued the prosecutor committed prosecutorial misconduct during closing arguments by appealing to the emotions, passions, and prejudices of the jury, and by misstating the evidence. Miller appealed his judgment of conviction and sentence to the Court of Appeals, which affirmed. Miller timely filed a petition for review which this Court granted. The Idaho Supreme Court affirmed the district court's judgment of conviction determining Miller was unable to show fundamental error as to any issue raised on appeal. The Court also clarified the fundamental error doctrine articulated in *State v. Perry*, 150 Idaho 209, 226, 245 P.3d 961, 978 (2010).