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State v. Hills Appellant's Brief Dckt. 39081

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,)	NO. 39081
)	
v.)	
)	
ROBERT S. HILLS,)	APPELLANT'S BRIEF
)	
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Mindful of the Idaho Supreme Court's holding in *State v. Green*, 130 Idaho 503 (1997), that by pleading guilty without including a provision that such a plea was conditioned on reserving the right to appeal from a pre-plea ruling, and, despite the fact that Mr. Hills did not enter a conditional guilty plea reserving the right to appeal from the denial of his motion to suppress, Mr. Hills nonetheless asserts that the district court erred when it denied his motion to suppress the evidence obtained against him as the result of a traffic stop.

Statement of the Facts & Course of Proceedings

Mr. Hills was charged by information with felony driving while under the influence of alcohol following a preliminary hearing. (R., pp.111-13.) Defense counsel filed a Motion to Suppress Evidence, arguing that the stop, seizure, and arrest of Mr. Hills were illegal because the police officer who conducted the stop did not have reasonable suspicion to believe that a crime had been, or was about to be, committed. (R., pp.151-57.) The district court ultimately denied the motion to suppress. (R., pp.217-22.)

Following the denial of Mr. Hills' motion to suppress, the parties reached a binding Rule 11 plea agreement under the terms of which Mr. Hills did not reserve the right to appeal from the denial of his motion to suppress, and agreed to waive his right to appeal the sentence if it was "imposed in accordance with the terms of this plea agreement[.]" Under the terms of the agreement, the parties would recommend that Mr. Hills receive a unified sentence of five years, with two years fixed, with the district court retaining jurisdiction. (R., pp.231-34.) The district court rejected that Rule 11 plea agreement. (Tr., p.17, Ls.11-15.)

A modified Rule 11 plea agreement was then prepared under which the parties would recommend that Mr. Hills receive a unified sentence of five years, with one year fixed, with the earlier condition that the district court retain jurisdiction deleted. (R., pp.239-42.) Mr. Hills pleaded guilty to felony driving while under the influence of alcohol pursuant to this modified Rule 11 plea agreement. (Tr., p.17, L.18 – p.28, L.2.) The district court signed an order accepting the Rule 11 plea agreement. (R., p.243.)

Prior to sentencing, the parties submitted an Amended ICR 11 Plea Agreement, in which a condition concerning the suspension of Mr. Hills' driver's license was

changed. In the modified Rule 11 plea agreement, the parties had agreed that the suspension of Mr. Hills' driver's license would be "back dated to April 30, 2010 . . . [with] no further suspension of the Defendant's driver's license[.]" (R., p.240.) In the Amended ICR 11 Plea Agreement the condition concerning Mr. Hills' driver's license suspension was modified to read: "**That the Defendant's driver's license shall be suspended for one (1) year[.]**" (R., p.253 (bold in original).) The district court then signed an order accepting the Amended ICR 11 Plea Agreement. (R., p.257.) A Judgment of Conviction was then entered which was consistent with the terms of the Amended ICR 11 Plea Agreement. (R., pp.289-91.)

Mr. Hills then filed a Notice of Appeal timely from the Judgment of Conviction, asserting as an issue on appeal "[w]hether the Court erred in denying the defendant's Motion to Suppress Evidence." (R., pp.266-68.)

ISSUE

Mindful of the fact that Mr. Hills did not enter a conditional guilty plea reserving his right to appeal from the district court's denial of his motion to suppress, did the district court err when it denied his motion to suppress?

ARGUMENT

Mindful Of The Fact That Mr. Hills Did Not Enter A Guilty Plea Reserving The Right To Appeal From The District Court's Denial Of His Motion To Suppress, The District Court Erred When It Denied His Motion To Suppress

Mindful of *State v. Green*, 130 Idaho 503 (1997), in which this Court explained that "a plea of guilty, if voluntarily and knowingly made, is conclusive as to the defendant's guilt and waives all non-jurisdictional defects in prior proceedings against the defendant" but that "a defendant may preserve such defects or issues by entering a

conditional guilty plea pursuant to I.C.R. 11(a)(2)[,]" and despite the fact that Mr. Hills did not enter a conditional guilty plea reserving the right to challenge the denial of his motion to suppress, he nonetheless asserts that the district court erred when it denied his motion to suppress the evidence obtained against him as the result of a traffic stop.

CONCLUSION

Mindful of the fact that he did not enter a conditional guilty plea reserving the right to appeal from the denial of his motion to suppress, Mr. Hills respectfully requests that this Court vacate the district court's order denying his motion to suppress and remand this matter for entry of an order granting his motion to suppress.

DATED this 16th day of March, 2012.

_____/s/_____
SPENCER J. HAHN
Deputy State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 16th day of March, 2012, I served a true and correct copy of the foregoing APPELLANT'S BRIEF, by causing to be placed a copy thereof in the U.S. Mail, addressed to:

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DISTRICT COURT JUDGE
E-MAILED BRIEF

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_____/s/_____
EVAN A. SMITH
Administrative Assistant

SJH/eas