

6-7-2016

State v. Stringham Respondent's Brief Dckt. 43470

Follow this and additional works at: https://digitalcommons.law.uidaho.edu/not_reported

Recommended Citation

"State v. Stringham Respondent's Brief Dckt. 43470" (2016). *Not Reported*. 2695.
https://digitalcommons.law.uidaho.edu/not_reported/2695

This Court Document is brought to you for free and open access by the Idaho Supreme Court Records & Briefs at Digital Commons @ UIdaho Law. It has been accepted for inclusion in Not Reported by an authorized administrator of Digital Commons @ UIdaho Law. For more information, please contact annablaine@uidaho.edu.

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)
) No. 43470
 Plaintiff-Respondent,)
) Bonneville Co. Case No.
 v.) CR-2015-1705
)
 KYLE KENT STRINGHAM,)
)
 Defendant-Appellant.)
)
 _____)

BRIEF OF RESPONDENT

**APPEAL FROM THE DISTRICT COURT OF THE SEVENTH JUDICIAL
DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE
COUNTY OF BONNEVILLE**

HONORABLE BRUCE PICKETT
District Judge

LAWRENCE G. WASDEN
Attorney General
State of Idaho

PAUL R. PANTHER
Deputy Attorney General
Chief, Criminal Law Division

RUSSELL J. SPENCER
Deputy Attorney General
Criminal Law Division
P. O. Box 83720
Boise, Idaho 83720-0010
(208) 334-4534

**ATTORNEYS FOR
PLAINTIFF-RESPONDENT**

JENNY C. SWINFORD
Deputy State Appellate
Public Defender
P. O. Box 2816
Boise, Idaho 83701
(208) 334-2712

**ATTORNEY FOR
DEFENDANT-APPELLANT**

TABLE OF CONTENTS

	<u>PAGE</u>
TABLE OF AUTHORITIES	ii
STATEMENT OF THE CASE.....	1
Nature Of The Case	1
Statement Of The Facts And Course Of The Proceedings.....	1
ISSUE	3
ARGUMENT.....	4
Stringham Has Failed To Show Error In The District Court's Denial Of His Motion To Suppress Evidence.....	4
A. Introduction.....	4
B. Standard Of Review.....	4
C. The Traffic Stop Was Supported By Corporal Cox's Observation Of Stringham's Traffic Violation	4
CONCLUSION	7
CERTIFICATE OF SERVICE.....	7

TABLE OF AUTHORITIES

<u>CASES</u>	<u>PAGE</u>
<u>Delaware v. Prouse</u> , 440 U.S. 648 (1979).....	5
<u>North Carolina v. Alford</u> , 400 U.S. 25 (1970).....	2
<u>State v. Sheldon</u> , 139 Idaho 980, 88 P.3d 1220 (Ct. App. 2003).....	5
<u>State v. Valdez-Molina</u> , 127 Idaho 102, 897 P.2d 993 (1995).....	4
<u>State v. Willoughby</u> , 147 Idaho 482, 211 P.3d 91 (2009).....	4
<u>Terry v. Ohio</u> , 392 U.S. 1 (1968).....	5
<u>United States v. Cortez</u> , 449 U.S. 411 (1981).....	5
<u>Whren v. United States</u> , 517 U.S. 806 (1996).....	5
 <u>STATUTES</u>	
I.C. § 49-630(2).....	5
 <u>CONSTITUTIONAL PROVISIONS</u>	
U.S. Const. amend. IV.....	5

STATEMENT OF THE CASE

Nature Of The Case

Kyle Kent Stringham appeals from his judgment of conviction for possession of methamphetamine, entered upon his conditional guilty plea. On appeal, he challenges the district court's denial of his suppression motion.

Statement Of The Facts And Course Of The Proceedings

On February 9, 2015, ISP Corporal Cox observed a vehicle driving 68 miles per hour in the left lane on Interstate 15 in an 80 mile per hour zone. (R., p.40.) The vehicle was not passing traffic nor was it preparing to make a left turn. (R., p.11.) Corporal Cox conducted a traffic stop on the vehicle for violating Idaho Code § 49-630 by driving at an unusually slow rate of travel in the left lane. (R., p.40.) Stringham was the driver of the vehicle. (Id.)

Upon contacting Stringham, Corporal Cox recognized signs of impairment. (R., pp.11-12.) Corporal Cox requested Stringham to perform field sobriety tests, which Stringham failed. (R., p.12.) Stringham also lacked proof of insurance and his driver's license was suspended. (R., pp.11-12.) After arresting Stringham for driving under the influence, Corporal Cox searched Stringham's vehicle and found two concealed rifles, methamphetamine, marijuana, paraphernalia, open containers of alcohol, and other various items. (R., p.12.)

The state ultimately charged Stringham with possession of methamphetamine and unlawful possession of a firearm, enhanced by Stringham's status as a persistent violator. (R., pp.68-70.) Stringham filed a motion to suppress the evidence, arguing

that the traffic stop was unlawful. (R., pp.27-31.) Following a hearing on the motion (R., pp.38-39), the district court denied the suppression motion (R., pp.40-47).

Stringham entered a conditional guilty plea, reserving his right to appeal the district court's order on his suppression motion. (R., pp.62-65.) Pursuant to that plea agreement, Stringham entered an Alford¹ plea to the possession of methamphetamine charge (5/14/2015 Tr., p.13, L.3 – p.17, L.15), and the state dismissed the unlawful possession of a firearm charge and the persistent violator enhancement (R., pp.81, 87). The district court entered judgment against Stringham and sentenced him to a unified term of seven years with two years fixed. (R., pp.85-86.) Stringham filed a timely notice of appeal. (R., pp.93-95.)

¹ North Carolina v. Alford, 400 U.S. 25 (1970).

ISSUE

Stringham states the issue on appeal as:

Did the district court err when it denied Mr. Stringham's motion to suppress?

(Appellant's brief, p.4.)

The state rephrases the issue as:

Has Stringham failed to show error in the district court's denial of his suppression motion?

ARGUMENT

Stringham Has Failed To Show Error In The District Court's Denial Of His Motion To Suppress Evidence

A. Introduction

Determining that police lawfully pulled over Stringham for violating Idaho traffic laws, the district court denied Stringham's suppression motion. (R., pp.40-47.) On appeal Stringham contends, as he did below, that his seizure was unlawful and, therefore, all evidence obtained during the subsequent search must be suppressed. (Appellant's brief, pp.5-9.) Application of the correct legal standards to the facts as found by the district court shows no error in the district court's analysis.

B. Standard Of Review

On review of a ruling on a motion to suppress, the appellate court accepts the trial court's findings of fact that are supported by substantial evidence and exercises free review of the trial court's determination as to whether constitutional standards have been satisfied in light of the facts found. State v. Willoughby, 147 Idaho 482, 485-86, 211 P.3d 91, 94-95 (2009). At a suppression hearing, the power to assess the credibility of witnesses, resolve factual conflicts, weigh evidence, and draw factual inferences is vested in the trial court. State v. Valdez-Molina, 127 Idaho 102, 106, 897 P.2d 993, 997 (1995).

C. The Traffic Stop Was Supported By Corporal Cox's Observation Of Stringham's Traffic Violation

The Fourth Amendment of the United States Constitution provides that "[t]he right of the people to be secure in their persons, houses, papers, and effects, against

unreasonable searches and seizures, shall not be violated.” U.S. Const. amend. IV. While routine traffic stops by police officers implicate the Fourth Amendment’s prohibition against unreasonable searches and seizures, the reasonableness of a traffic stop is analyzed under Terry v. Ohio, 392 U.S. 1 (1968), because a traffic stop is more similar to an investigative detention than a custodial arrest. Delaware v. Prouse, 440 U.S. 648, 653 (1979); State v. Sheldon, 139 Idaho 980, 983, 88 P.3d 1220, 1223 (Ct. App. 2003). “An investigative detention is permissible if it is based upon specific articulable facts which justify suspicion that the detained person is, has been, or is about to be engaged in criminal activity.” Sheldon, 139 Idaho at 983, 88 P.3d at 1223 (citing Terry, 392 U.S. at 21; United States v. Cortez, 449 U.S. 411, 417 (1981)). Initiating a traffic stop based on the officer’s actual observations of a traffic infraction is reasonable. Whren v. United States, 517 U.S. 806, 810 (1996).

As found by the district court, Corporal Cox pulled over Stringham based on his actual observations that Stringham was driving his vehicle in violation of Idaho Code § 49-630. (R., pp.46-47.) That statute provides, in pertinent part,

Upon all highways any vehicle proceeding at less than normal speed of traffic at the time and place and under the conditions then existing, shall be driven in the right-hand lane available for traffic, or as close as practicable to the right-hand curb or edge of the highway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.

I.C. § 49-630(2). Stringham was driving his vehicle at 68 miles per hour in the left lane on a freeway with an 80 mile per hour speed limit. (R., p.40.) As found by the district court, the normal speed for traffic on that freeway was 80 miles per hour. (R., p.46.) Stringham was not passing traffic and he was not turning left. (R., p.11.) Stringham

should have been driving in the right lane under Idaho Code § 49-630; driving in the left lane under the circumstances present in this case at considerably less than the normal speed violated the statute. The officer properly pulled over Stringham consistent with his observation of Stringham's traffic offense.

On appeal Stringham first notes that he was not violating Idaho Code § 49-654 by driving in excess of the speed-limit. (Appellant's brief, pp.7-8.) That is true, but irrelevant. Stringham was not pulled over for traveling too quickly; he was pulled over for traveling in the left lane at a speed that was considerably less than normal freeway speeds where, under the circumstances, he should have been traveling in the right lane. Stringham further notes that the weather was windy and he had items loaded on his roof rack (Appellant's brief, pp.8-9), which presumably necessitated his driving slower than normal. But this is also irrelevant. Stringham is welcome to drive slower than the normal speed for the freeway, in the *right* lane. Under Idaho Code § 49-630, unless he is passing traffic or preparing to turn left, Stringham is not welcome to drive slower than normal freeway speeds in the *left* lane.

By driving slower than the normal speed of traffic in the left lane of the freeway, while not passing traffic and not preparing to turn left, Stringham violated Idaho Code § 49-630. Enforcing a traffic stop based on Corporal Cox's observation of Stringham's traffic violation was reasonable under the Fourth Amendment. The district court correctly denied Stringham's suppression motion on that basis, and Stringham has failed to show error in the court's analysis. The district court's order denying Stringham's suppression motion should be affirmed.

CONCLUSION

The state respectfully requests that this Court affirm the district court's order denying Stringham's motion to suppress evidence.

DATED this 7th day of June, 2016.

/s/ Russell J. Spencer
RUSSELL J. SPENCER
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 7th day of June, 2016, served a true and correct copy of the foregoing BRIEF OF RESPONDENT by emailing an electronic copy to:

JENNY C. SWINFORD
DEPUTY STATE APPELLATE PUBLIC DEFENDER

at the following email address: briefs@sapd.state.id.us.

/s/ Russell J. Spencer
RUSSELL J. SPENCER
Deputy Attorney General

RJS/dd