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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,)	NO. 44749
)	
v.)	MADISON COUNTY NO. CR 2015-2493
)	
JASON BRAD HJELM,)	REPLY BRIEF
)	
Defendant-Appellant.)	
_____)	

REPLY BRIEF OF APPELLANT

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

HONORABLE GREGORY W. MOELLER
District Judge

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State Appellate Public Defender
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STATEMENT OF THE CASE

Nature of the Case

Jason Brad Hjelm appeals from his judgment of conviction for possession of a controlled substance. Mr. Hjelm pleaded guilty and the district court imposed a unified sentence of five years, with two years fixed, and the court suspended the sentence and placed Mr. Hjelm on probation. Mr. Hjelm now appeals, and he asserts that the district court abused its discretion by denying his motion for a continuance and his motion to withdraw his guilty plea. This Reply Brief serves only to clarify the state of the record on appeal.

Statement of the Facts and Course of Proceedings

The statement of the facts and course of proceedings were previously articulated in Mr. Hjelm's Appellant's Brief. They need not be repeated in this Reply Brief, but are incorporated herein by reference thereto.

ISSUES

- I. Did the district court abuse its discretion by denying Mr. Hjelm's motion to continue the hearing on his motion to withdraw his guilty plea?
- II. Did the district court abuse its discretion by denying Mr. Hjelm's motion to withdraw his guilty plea?

ARGUMENT

I.

The District Court Abused Its Discretion By Denying Mr. Hjelm's Motion For A Continuance

In response to the Mr. Hjelm's argument that the district court abused its discretion by denying his motion for a continuance, the State asserts that the record does not show that Mr. Hjelm questioned the officer about his credibility or any dispatch logs at the suppression hearing. (Respondent's Brief, p.10.) The State then notes that, "review of the record on this point is limited to the record Hjelm has supplied on appeal, which includes minutes of the suppression hearing, but not a transcript of it." (Respondent's Brief, p.10 n.3.) The State then notes that it is Mr. Helm's responsibility to provide a sufficient record on appeal. (Respondent's Brief, p.10 n.3.)

While the State is correct that it is Mr. Hjelm's responsibility, as the appellant, to provide the record on appeal, the State is incorrect that the transcript of the suppression hearing is not in the record. The suppression hearing is pages 27 through 108 of the appellate transcript. (*See generally*, Tr.) While counsel for Mr. Hjelm asked the officer if he was contacted by any law enforcement agency prior to stopping the vehicle, and he responded, "no," the State is correct that counsel did not ask about any dispatch logs or otherwise try to impeach the officer's credibility. (*See* Tr., p.49, Ls.22-25.) But, as Mr. Hjelm acknowledged in the Appellant's Brief, Mr. Hjelm agrees with the district court that whether the arresting officer had an ulterior motive for conducting the stop is irrelevant, for the purposes of suppression, where the officer does have reasonable, articulable suspicion. (Appellant's Brief, p.7.) Thus, Mr. Hjelm submits that the events of the suppression hearing are ultimately irrelevant to the issues raised on appeal, as

Mr. Hjelm was seeking information to discredit the officer's credibility generally, not seeking information that would result in suppression of the evidence.

CONCLUSION

Mr. Hjelm requests that the order denying his motion to withdraw his guilty plea be reversed and his case remanded for further proceedings. Alternatively, he requests that the order denying his motion for a continuance be reversed and his case remanded for further proceedings.

DATED this 30th day of January, 2018.

_____/s/_____
JUSTIN M. CURTIS
Deputy State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 30th day of January, 2018, I served a true and correct copy of the foregoing APPELLANT'S REPLY BRIEF, by causing to be placed a copy thereof in the U.S. Mail, addressed to:

JASON BRAD HJELM
4154 E 700 N
RIGBY ID 83442

GREGORY W MOELLER
DISTRICT COURT JUDGE
E-MAILED BRIEF

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ATTORNEY AT LAW
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CRIMINAL DIVISION
E-MAILED BRIEF

_____/s/_____
EVAN A. SMITH
Administrative Assistant

JMC/eas