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State v. Green Appellant's Brief Dckt. 41736

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IN THE SUPREME COURT OF THE STATE OF IDAHO

COPY

STATE OF IDAHO,)	
)	Nos. 41736, 41737
Plaintiff-Appellant,)	
)	Ada Co. Case Nos.
vs.)	CR-2012-6591, CR-2012-14612
)	
ALESHA ANN GREEN,)	
)	
Defendant-Respondent.)	

BRIEF OF APPELLANT

**APPEAL FROM THE DISTRICT COURT OF THE FOURTH JUDICIAL
DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE
COUNTY OF ADA**

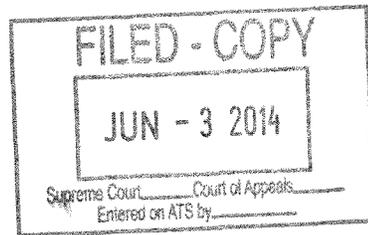
**HONORABLE MELISSA MOODY
District Judge**

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STATEMENT OF THE CASE

Nature Of The Case

In an issue of first impression, the district court held that the arrest standards under Article I, Section 17 of the Idaho State Constitution are not coextensive with those of the Fourth Amendment of the United States Constitution, and, determining that those higher standards had not been met, granted Alesha Ann Green's suppression motion. The state appeals from the district court's order granting that motion.

Statement Of The Facts And Course Of The Proceedings

As set forth by the district court, the factual background of this case is as follows:

On the evening of October 2, 2012, Ada County Sheriff's Office Deputy Joe Richardson stopped Defendant for failing to maintain her lane of travel. Defendant admitted she knew her driver's license was invalid, and Deputy Richardson arrested her for driving on an invalid license. Deputy Richardson had no reason to believe that Defendant was someone other than who she claimed to be, nor did he have any reason to believe that Defendant would not appear for court.

Defendant was searched incident to arrest and alleged drugs and drug paraphernalia were found. Her car was also searched and \$6,500 in cash was discovered. Defendant was transported immediately to the Ada County Jail to be interviewed by detectives. She made incriminating statements. Defendant gave consent to search her hotel room, where a digital scale and plastic baggies were discovered.

(R., p.318.)

Green filed a motion to suppress the drug evidence and statements she made after her arrest. (R., pp.112-15.) The district court held an evidentiary hearing on the motion. (R., p.316.) Following that hearing, the district court granted Green's motion, holding that because her arrest did not comply with Idaho Code § 49-1407, her seizure

was unconstitutional. (R., pp.317-27.) The state filed a timely notice of appeal. (R., pp.334-36.)

ISSUE

This case raises an issue of first impression. In Virginia v. Moore, 553 U.S. 164 (2008), the United States Supreme Court determined that the arrest standard under the Fourth Amendment was probable cause, independent of state law. While recognizing this, the district court determined that the reasonableness of an arrest under Article I, Section 17 of the Idaho State Constitution depended on strict adherence to state statutes. Did the district court err when it decided that the Idaho State Constitution should be interpreted differently than the United States Constitution?

ARGUMENT

The District Court Erred By Suppressing The Evidence Discovered Incident To Green's Constitutionally Reasonable Arrest

A. Introduction

Officers arrested Green on probable cause that she was violating Idaho state law by driving on an invalid license. (R., p.318.) Idaho Code § 49-1407, however, only allows officers to write a citation for a person driving on an invalid license, unless there is reason to believe that the person is using a false identity or that the person will not later answer the summons in court. I.C. § 49-1407(1). Incident to Green's arrest she was searched, and that search led to the discovery of drugs and other evidence.

Green filed a motion to suppress the drug evidence and statements she made after her arrest, asserting that her arrest was unlawful. (R., pp.112-15.) Though it recognized that the reasonableness of an arrest for purposes of the Fourth Amendment does not depend on state law, the district court still determined that the arrest was unreasonable under Article I, Section 17 of the Idaho State Constitution because it did not comply with Idaho Code § 49-1407 and granted the motion. (R., pp.320-27.) Application of the correct legal standards, however, shows no basis for interpreting the Idaho State Constitution differently than the United States Constitution in regards to the standards for a reasonable arrest. Because the search and seizure were reasonable under the Fourth Amendment, they are reasonable under Article I, Section 17, and the district court's order suppressing evidence should be reversed.

B. Standard Of Review

“Both constitutional questions and questions of statutory interpretation are questions of law over which this Court exercises free review.” Stuart v. State, 149 Idaho 35, 40, 232 P.3d 813, 818 (2010) (citation omitted).

C. There Is No Basis To Interpret Article I, Section 17 Of The Idaho State Constitution Differently Than The Fourth Amendment Of The United States Constitution In Regards To The Constitutional Standard For Arrests

Both the Fourth Amendment of the United States Constitution and Article I, Section 17 of the Idaho State Constitution protect the people against unreasonable searches and seizures. Whether an arrest is reasonable under the Fourth Amendment is controlled by the United State Supreme Court’s recent opinion in Virginia v. Moore, 553 U.S. 164 (2008). In Moore, police officers stopped a car driven by Moore and arrested him for driving on a suspended license. Id. at 166. In a search incident to that arrest the officers found drugs. Id. at 166-167. Moore moved to suppress the evidence resulting from the search by claiming that, under Virginia law, the offense for which he was arrested was only citable, and therefore the arrest was unlawful. Id. at 167-168. The Virginia Supreme Court reversed Moore’s conviction, reasoning that Moore’s arrest was unlawful under state law, and therefore the search incident to arrest was invalid under the Fourth Amendment. Id. at 168.

The United States Supreme Court granted certiorari in the case and reversed the Virginia court. The Supreme Court explained that its Fourth Amendment precedent made clear that an arrest based on probable cause was constitutionally reasonable, and state law regarding searches and seizures did not change that calculus. Id. at 171-172. The Supreme Court reasoned:

The Fourth Amendment protects against “unreasonable searches and seizures” of (among other things) the person. In determining whether a search or seizure is unreasonable, we begin with history. We look to statutes and common law of the founding era to determine the norms that the Fourth Amendment was meant to preserve.

We are aware of no historical indication that those who ratified the Fourth Amendment understood it as a redundant guarantee of whatever limits on search and seizure legislatures might have enacted. The immediate object of the Fourth Amendment was to prohibit the general warrants and writs of assistance that English judges had employed against the colonists. That suggests, if anything, that founding-era citizens were skeptical of using the rules for search and seizure set by government actors as the index of reasonableness.

Moore, 553 U.S. at 168 (citations and footnote omitted). Further analyzing the question, the Supreme Court ultimately concluded “that warrantless arrests for crimes committed in the presence of an arresting officer are reasonable under the Constitution, and that while states are free to regulate such arrests however they desire, state restrictions do not alter the Fourth Amendment’s protections.” Id. at 176. Having found the arrest lawful under the Constitutional standards for arrest, the Court also rejected the argument that the search incident to arrest was unreasonable because the arrest was “unlawful” under state law. Id. at 177-178.

Because the Fourth Amendment analysis is controlled by the United States Supreme Court opinion in Moore, the question becomes whether the analysis under the Idaho State Constitution should be any different. The Idaho Supreme Court recently held that, “when interpreting the Idaho Constitution, this Court will use federal rules and methodology unless clear precedent or circumstances unique to the state of Idaho or its constitution indicates that Idaho’s constitution provides greater protection than the analogous federal provision.” CDA Dairy Queen, Inc. v. State Insurance Fund, 154 Idaho 379, 384, 299 P.3d 186, 191 (2013). The district court nevertheless determined

that the Idaho State Constitution should be interpreted differently than the United States Constitution under these circumstances and, though constitutional under Moore, held that Green's arrest was unreasonable under Article I, Section 17 because it did not strictly comply with state statute. (R., pp.320-23.)

It is well-established that Idaho courts are "free to interpret our state constitution as more protective of the rights of Idaho citizens than the United States Supreme Court's interpretation of the federal constitution." State v. Guzman, 122 Idaho 981, 987, 842 P.2d 660, 666 (1992) (citations omitted). However, in those cases where the Idaho Supreme Court has determined that our constitution provides greater protections than the federal constitution, the Court explains the reasons why. See State v. Fees, 140 Idaho 81, 88-89, 90 P.3d 306, 313-314 (2004) (discussing cases and noting that, in those cases, the Court "provided greater protection to Idaho citizens based on the uniqueness of our state, our Constitution, and our long-standing jurisprudence"); State v. Donato, 135 Idaho 469, 472, 20 P.3d 5, 8 (2001) (same); cf. State v. Wheaton, 121 Idaho 404, 406-407, 825 P.2d 501, 503-504 (1992) (declining to consider claim that Idaho State Constitution affords greater protection absent supporting argument). The district court, however, failed to provide any basis for interpreting Article I, Section 17 of the Idaho State Constitution differently than the Fourth Amendment in regards to what constitutes a reasonable basis for arrest. (See R., pp.317-27.) Correctly applying the relevant legal standards, there is no basis for interpreting the Idaho State Constitution more broadly than its federal counterpart in this circumstance.

There is no evidence that Article I, Section 17 of the Idaho State Constitution is not coextensive with the Fourth Amendment of the United States Constitution in regards

to the standards for a reasonable arrest. First, Idaho's uniqueness, often expressed in the context of expectations of privacy held by people living in a rural state, does not have the same significance with respect to whether an arrest must strictly comply with statute or need simply be supported by probable cause. Cf. State v. Webb, 130 Idaho 462, 467, 943 P.2d 52, 57 (1997) (in determining the extent of curtilage, the Court should consider the "locality of the residence" and "the differences in custom and terrain" when resolving reasonable expectations of privacy). Second, the language of the search and seizure provisions of the Idaho State Constitution is practically identical to the language employed by the framers of the Fourth Amendment.¹ Finally, no "long-standing" jurisprudence clearly suggests that the Idaho State Constitution requires a different basis for arrest than the basis which satisfies the Fourth Amendment, *i.e.*, probable cause.

This Court has recognized that there is "merit in having the same rule of law applicable within the borders of our state, whether an interpretation of the Fourth Amendment or its counterpart—Article I, § 17 of the Idaho Constitution—is involved.

¹ Article I, Section 17 of the Idaho State Constitution reads:

The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated; and no warrant shall issue without probable cause shown by affidavit, particularly describing the place to be searched and the person or thing to be seized.

Similarly, the Fourth Amendment to the United States Constitution reads:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Such consistency makes sense to the police and the public.” State v. Charpentier, 131 Idaho 649, 653, 962 P.2d 1033, 1037 (1998). Although the “Court has at times construed the provisions of our Constitution to grant greater protection than that afforded under the United States Supreme Court’s interpretation of the federal Constitution,” the circumstances in which the Court has done so do not “support a divergence from the interpretation of the Fourth Amendment by the United States Supreme Court in this case.” Fees, 140 Idaho at 88-89, 90 P.3d 313-314.

Though not directly addressed by the district court, the state acknowledges statements from prior decisions that “[w]hether or not an arrest was legal is governed by state law.” State v. Julian, 129 Idaho 133, 135, 922 P.2d 1059, 1062 (1996) (citing United States v. Watson, 423 U.S. 411, 420-21 n.8 (1976); State v. Pontier, 95 Idaho 707, 712, 518 P.2d 969, 974 (1974)). The “legality” of an arrest, however, has no bearing on the *constitutionality* of the arrest. As explained by the United States Supreme Court in Moore, no precedent holds that “violations of state arrest law are also violations of the Fourth Amendment,” rather, “when States go above the Fourth Amendment minimum, the Constitution’s protections concerning search and seizure remain the same.” Id. at 173; see also Id. at 177 (distinguishing the usage of “lawful” in state-court decisions as shorthand for compliant with state law from prior Supreme Court usage of “lawful” as shorthand for compliant with constitutional constraints).

The Supreme Court recognized in Moore that if it “concluded otherwise, we would often frustrate rather than further state policy.” Id. at 174. As the Supreme Court explained, while Virginia chose to enact by statute more stringent arrest standards than those required by the Constitution, it did not attach the remedy of exclusion of evidence

to violations of those statutes. Id. To force the exclusionary rule onto the states for mere statutory violations could have the result of states altogether abandoning restrictions on arrest in order to maintain control over the remedy. Id. That same rationale holds true in Idaho. Idaho courts should not impose constitutional remedies for statutory violations, but should allow the Idaho legislature to determine the remedy for violations of its statutes.

Because the standard for a constitutionally reasonable arrest is probable cause that the defendant is violating the law, and officers had probable cause to believe Green was violating the law by driving on an invalid license, Green's arrest was reasonable. Because Green's arrest did not violate either her state or federal constitutional rights, there is no basis on which to suppress the evidence discovered incident to that arrest. The district court erred by suppressing the evidence in this case and its order should be reversed.

CONCLUSION

The state respectfully requests that this Court reverse the district court's order granting Green's suppression motion, and remand this case for further proceedings.

DATED this 3rd day of June, 2014.



RUSSELL J. SPENCER
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 3rd day of June, 2014, served a true and correct copy of the attached BRIEF OF RESPONDENT by causing a copy addressed to:

SARA B. THOMAS
STATE APPELLATE PUBLIC DEFENDER

to be placed in The State Appellate Public Defender's basket located in the Idaho Supreme Court Clerk's office.



RUSSELL J. SPENCER
Deputy Attorney General

RJS/pm