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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 47025-2019
Plaintiff-Respondent,)	
)	BINGHAM COUNTY NO. CR-2018-3274
v.)	
)	
JONAN JILL EDWARDS,)	APPELLANT'S BRIEF
)	
Defendant-Appellant.)	

BRIEF OF APPELLANT

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

**HONORABLE DARREN B. SIMPSON
District Judge**

**ERIC D. FREDERICKSEN
State Appellate Public Defender
I.S.B. #6555**

**JENNY C. SWINFORD
Deputy State Appellate Public Defender
I.S.B. #9263
322 E. Front Street, Suite 570
Boise, Idaho 83702
Phone: (208) 334-2712
Fax: (208) 334-2985
E-mail: documents@sapd.state.id.us**

**ATTORNEYS FOR
DEFENDANT-APPELLANT**

**KENNETH K. JORGENSEN
Deputy Attorney General
Criminal Law Division
P.O. Box 83720
Boise, Idaho 83720-0010
(208) 334-4534**

**ATTORNEY FOR
PLAINTIFF-RESPONDENT**

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 Proceedings	1
ISSUE PRESENTED ON APPEAL.....	4
ARGUMENT.....	5
The District Court Erred When It Denied Ms. Edwards’s Motion To Suppress Evidence Found In Her Residence	5
A. Introduction	5
B. Standard Of Review.....	5
C. Mindful Of The District Court’s Credibility Determinations, The District Court Should Have Granted Ms. Edwards’s Motion To Suppress Because She Did Not Consent To The Officers’ Entry Into Her Residence	5
CONCLUSION.....	7
CERTIFICATE OF SERVICE	7

TABLE OF AUTHORITIES

Cases

<i>Bumper v. North Carolina</i> , 391 U.S. 543 (1968)	6
<i>Schneckloth v. Bustamonte</i> , 412 U.S. 218 (1973).....	6
<i>State v. Bishop</i> , 146 Idaho 804 (2008).....	7
<i>State v. Danney</i> , 153 Idaho 405 (2012).....	5
<i>State v. Ellis</i> , 155 Idaho 584 (Ct. App. 2013).....	5
<i>State v. Hansen</i> , 138 Idaho 791 (2003).....	5
<i>State v. Howard</i> , 155 Idaho 666 (Ct. App. 2013)	6
<i>State v. Huskey</i> , 106 Idaho 91 (Ct. App. 1984).....	6
<i>State v. Jaborra</i> , 143 Idaho 94 (Ct. App. 2006)	6
<i>State v. Linenberger</i> , 151 Idaho 680 (Ct. App. 2011).....	6
<i>State v. Smith</i> , 144 Idaho 482 (2007).....	6
<i>State v. Varie</i> , 135 Idaho 848, 852 (2001).....	6
<i>State v. Wulff</i> , 157 Idaho 416, 418 (2014)	5
<i>Wong Sun v. United States</i> , 371 U.S. 471 (1963)	7

STATEMENT OF THE CASE

Nature of the Case

Jonan J. Edwards appeals from the district court's judgment of conviction for possession of a controlled substance. Mindful of the district court's credibility determinations, she argues that the district court erred by denying her motion to suppress. She maintains that the district court should have granted her motion because she did not consent to the officers' entry into her residence. For this reason, she respectfully requests that this Court reverse or vacate the district court's order denying her motion to suppress, vacate the district court's judgment of conviction, and remand this case for further proceedings.

Statement of Facts and Course of Proceedings

Detective Marvin with the Bingham County Sheriff's Office and Alcohol, Tobacco, and Firearm Agent Kondo and Agent Gonzales went to Ms. Edwards's residence to retrieve a firearm. (Tr. Vol. I,¹ p.59, Ls.20–25.) Once inside, officers saw a syringe containing an opaque substance in her kitchen sink. (Tr. Vol. I, p.61, Ls.17–20.) Ms. Edwards signed a written consent form to search, and the officers found methamphetamine. (Tr. Vol. I, p.62, Ls.10–13.)

The State charged Ms. Edwards with possession of a controlled substance and possession of drug paraphernalia. (R., pp.61–62.) Ms. Edwards pled not guilty. (R., pp.75–76.)

Ms. Edwards moved to suppress the evidence obtained in her residence. (R., pp.85–86.) She argued that the officers entered her residence without a warrant, and they did not have her consent. (R., p.85.) In an accompanying affidavit, Ms. Edwards stated:

¹ There are two transcripts on appeal contained in one .pdf document. The first transcript, cited as Volume I, contains the motion to suppress hearing and the sentencing hearing. The second transcript, cited as Volume II, contains the trial.

On June 14, 2018, Detective Mike Marvin of the Bingham County Sheriff's office came to my house with Agents Hoshi Kondo and Janece Gonzales of the Bureau of Alcohol, Tobacco and Firearms. Detective Marvin asked if they could come into my residence to talk to me. Agent Gonzales stated that I could either speak to him inside or outside my residence. I told them I wanted to talk to them outside. Detective Marvin put his hand on the door and pushed it open and walked into my residence without my permission along with Agents Kondo and Gonzales. None of the officers showed me a warrant authorizing their entry. While inside, the officers found alleged drugs and paraphernalia, resulting in the charges in this case. The entry into my residence without my permission violated my 4th Amendment right against unreasonable searches and seizures.

(R., pp.87–88.) The State objected to Ms. Edwards's motion and argued that the officers obtained verbal and written consent. (R., p.95.)

The district court held a hearing on Ms. Edwards's motion. (R., pp.99–100; Tr. Vol. 1, p.5, L.1–p.63, L.2.) Detective Marvin, Agent Kondo, and Agent Gonzales testified. (See Tr., p.6, L.20–p.59, L.5.) They all testified that Ms. Edwards consented to their entry into her residence. (Tr. Vol. 1, p.8, L.17–p.9, L.5, p.27, Ls.4–16, p.28, L.14–p.29, L.2, p.45, L.25–p.46, L.20.) At the end of the hearing, the district court found:

The evidence presented here today disputes Ms. Edwards' affidavit. The Court finds that they asked for permission. Ms. Edwards allowed them into her home, invited them in both verbally and through – gesture by stepping into the room and then allowing the officers to enter. . . . The facts also bear out that at no time did the defendant ask or restrict their movements within the home, did not ask them to leave. . . . That's the findings of the Court that the entry was lawful, that the defendant gave her consent to the officers, never revoked her consent

(Tr. Vol. 1, p.61, Ls.7–12, p.61, Ls.21–23, p.62, Ls.14–16.) The district court also determined that Agent Kondo saw the syringe in plain view and then searched the residence pursuant to the signed consent form. (Tr. Vol. 1, p.61, L.23–p.62, L.13.) Ultimately, the district court denied the motion. (Tr. Vol. 1, p.62, Ls.16–17; R., p.100.)

Before trial, the State moved to dismiss the possession of paraphernalia charge. (R., p.140.) Ms. Edwards went to trial on the remaining charge of possession of a controlled

substance. (*See* R., pp.142–47; *see generally* Tr. Vol. II.) The jury found her guilty as charged. (R., pp.146, 181.) The district court withheld judgment and placed Ms. Edwards on probation for four years. (R., pp.189–91.) Ms. Edwards timely appealed. (R., pp.202–03.)

ISSUE

Did the district court err when it denied Ms. Edwards's motion to suppress evidence found in her residence?

ARGUMENT

The District Court Erred When It Denied Ms. Edwards's Motion To Suppress Evidence Found In Her Residence

A. Introduction

Mindful of the district court's credibility determinations, Ms. Edwards nonetheless argues that the district court erred by denying her motion to suppress because she did not consent to the officers' entry into her residence.

B. Standard Of Review

The Court uses a bifurcated standard to review a district court's order on a motion to suppress. *State v. Wulff*, 157 Idaho 416, 418 (2014); *State v. Ellis*, 155 Idaho 584, 587 (Ct. App. 2013). The Court will accept the trial court's findings of fact "unless they are clearly erroneous." *Wulff*, 157 Idaho at 418. Findings of fact are clearly erroneous if they are not supported by substantial and competent evidence. *State v. Danney*, 153 Idaho 405, 408 (2012); *see also Ellis*, 155 Idaho at 587. "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." *Ellis*, 155 Idaho at 587. The Court exercises free review over the "application of constitutional principles in light of those facts." *Wulff*, 157 Idaho at 418.

C. Mindful Of The District Court's Credibility Determinations, The District Court Should Have Granted Ms. Edwards's Motion To Suppress Because She Did Not Consent To The Officers' Entry Into Her Residence

"The Fourth Amendment of the United States Constitution protects citizens from unreasonable search and seizure. A search and seizure, conducted without a warrant issued on probable cause, is presumptively unreasonable." *State v. Hansen*, 138 Idaho 791, 796 (2003)

(citations omitted). Voluntary consent to a search is an exception to the warrant requirement. *State v. Smith*, 144 Idaho 482, 488 (2007); *State v. Jaborra*, 143 Idaho 94, 97 (Ct. App. 2006).

“It is the State’s burden to prove, by a preponderance of the evidence, that the consent was voluntary rather than the result of duress or coercion, direct or implied.” *Jaborra*, 143 Idaho at 97. This has also been described as “a heavy burden to prove that the consent was given freely and voluntarily.” *State v. Huskey*, 106 Idaho 91, 94 (Ct. App. 1984) (citing *Bumper v. North Carolina*, 391 U.S. 543, 548–49 (1968)).

“A voluntary decision is one that is ‘the product of an essentially free and unconstrained choice by its maker.’ An individual’s consent is involuntary, on the other hand, ‘if his will has been overborne and his capacity for self-determination critically impaired.’” *Jaborra*, 143 Idaho at 97 (quoting *Schneckloth v. Bustamonte*, 412 U.S. 218, 225 (1973)). To determine whether an individual’s will was overborne in a particular case, “the court must assess ‘the totality of all the surrounding circumstances—both the characteristics of the accused and the details of the interrogation.’” *Id.* (quoting *Bustamonte*, 412 U.S. at 226). “In examining all the surrounding circumstances to determine if in fact the consent to search was coerced, account must be taken of subtly coercive police questions, as well as the possibly vulnerable subjective state of the person who consents.” *Bustamonte*, 412 U.S. at 229; accord, e.g., *State v. Varie*, 135 Idaho 848, 852 (2001); *State v. Linenberger*, 151 Idaho 680, 686 (Ct. App. 2011).

Here, Ms. Edwards submits that the district court erred by denying her motion to suppress because the officers’ entry into her residence was unlawful. Mindful that the district court’s credibility determinations are unchallengeable on appeal, see, e.g., *State v. Howard*, 155 Idaho 666, 673 (Ct. App. 2013), she maintains that she told the officers that she wanted to talk to them outside, but Detective Marvin pushed her front door open and the officers entered her residence

without her permission. (R., pp.87–88.) In short, she did not consent to their search. Because Ms. Edwards did not consent, the State did not meet its burden to prove an exception to the warrant requirement to allow the officers' entry. Therefore, the district court should have suppressed all evidence obtained once the officers were in her residence. *See Wong Sun v. United States*, 371 U.S. 471, 488 (1963) (evidence obtained through unconstitutional police conduct subject to exclusion); *State v. Bishop*, 146 Idaho 804, 810–11 (2008) (same).

CONCLUSION

Ms. Edwards respectfully requests that this Court reverse or vacate the district court's order denying her motion to suppress, vacate the district court's judgment of conviction, and remand this case for further proceedings.

DATED this 1st day of October, 2019.

/s/ Jenny C. Swinford
JENNY C. SWINFORD
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of October, 2019, I caused a true and correct copy of the foregoing APPELLANT'S BRIEF, to be served as follows:

KENNETH K. JORGENSEN
DEPUTY ATTORNEY GENERAL
E-Service: ecf@ag.idaho.gov

/s/ Evan A. Smith
EVAN A. SMITH
Administrative Assistant

JCS/eas