

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)
) Nos. 46160-2018 & 46161-2018
 Plaintiff-Respondent,)
) Kootenai County Case Nos.
 v.) CR-2018-1037 & CR-2018-1195
)
 DAMEAN DEAN ESPINOZA,)
)
 Defendant-Appellant.)
 _____)

BRIEF OF RESPONDENT

**APPEAL FROM THE DISTRICT COURT OF THE FIRST JUDICIAL
DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE
COUNTY OF KOOTENAI**

HONORABLE JOHN T. MITCHELL
District Judge

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STATEMENT OF THE CASE

Nature Of The Case

Damean Dean Espinoza challenges the district court's denial of his motion to suppress evidence following his warrantless arrest for a misdemeanor committed outside the arresting officer's presence. He argues this Court's decision in State v. Clarke, 165 Idaho 393, 446 P.3d 451 (2019), requires suppression.

Statement Of The Facts And Course Of The Proceedings

After a suppression hearing, the district court made the following findings of fact: Officers Johnson and Koontz responded to a reported assault at an Exxon gas station. (46160 R., p.64.) "Neither Officer Johnson nor Officer Koontz observed the assault take place." (46160 R., p.64.) Officer Johnson interviewed the alleged victim, and Officer Koontz interviewed Damean Dean Espinoza, the alleged assaulter. (46160 R., pp.64-65.) Based on the interviews, Officer Johnson arrested Espinoza for misdemeanor assault. (46160 R., pp.64-65.) In a search incident to Espinoza's arrest, Officer Johnson found what he believed to be heroin on Espinoza's person. (46160 R., p.65.)

A few months later, Detective Williamson secured an arrest warrant for Espinoza. (46160 R., p.65.) "The arrest warrant was for possession of a controlled substance with intent to deliver, which stemmed from the heroin seized as a result of [Espinoza's] [earlier] arrest." (46160 R., p.65.) Detective Williamson arrested Espinoza pursuant to the arrest warrant. (46160 R., p.65.) In a search incident to Espinoza's arrest, Detective Williamson found what he believed to be contraband on Espinoza's person. (46160, R., p.65.)

The state charged Espinoza with two crimes in two separate cases. (46160, R., pp.65-66.) In the first case, the state charged Espinoza with possession with the intent to deliver a controlled

substance based on the heroin found at the Exxon gas station subsequent to Espinoza's arrest. (46160, R., p.65.) In the second case, the state charged Espinoza with trafficking heroin based on the contraband found subsequent to Espinoza's later arrest pursuant to the search warrant. (46160 R., pp.65-66.) Espinoza filed a motion to suppress in both cases, alleging that his arrest for a misdemeanor committed outside of the presence of the officers at the Exxon gas station violated the Idaho Constitution. (46160, R., p.66; see 46160, R., pp.48-53.)

In its order denying Espinoza's motions to suppress, the district court observed that the "primary issue" was whether Espinoza's "arrest for an alleged assault committed outside the presence of law enforcement was unconstitutional." (46160, R., pp.66-67.) The district court noted that it had already addressed the same issue in an unrelated case, State v. Clarke, Kootenai County Case No. CR-2016-14857, and took judicial notice of Clarke in Espinoza's case. (46160, R., p.67.) Consistent with its decision in Clarke, the district court found that the Idaho Constitution did not prohibit the officers from arresting Espinoza for a misdemeanor committed outside of their presence. (46160, R., pp.68-72.) The district court thus held that the search incident to Espinoza's arrest at the Exxon gas station was lawful and, consequently, that the search incident to Espinoza's arrest pursuant to the arrest warrant, which was supported by the evidence found from the first arrest, was also lawful. (46160, R., pp.68-75.)

Espinoza timely appealed in both cases (46160, R., pp.83-85; Aug., pp.4-6), and this Court consolidated the appeals (7/23/2018 Order to Consolidate Appeals for All Purposes). Espinoza then moved this Court to suspend his appellate proceedings until this Court reached a decision in State v. Clarke, Idaho Supreme Court Docket No. 45062-2017, which was then pending on appeal, because "[t]he resolution of the issue in *Clarke* will likely impact or resolve the issue to be raised on appeal by Mr. Espinoza." (12/7/2018 Motion to Suspend the Appellate Proceedings.) This

Court granted Espinoza's motion and suspended the appellate proceedings "until the Remittitur is filed in *State v. Clarke*, Docket No. 45062." (12/27/2018 Order Granting Motion to Suspend the Appellate Proceedings.)

In Clarke, this Court reversed the district court's decision on the motion to suppress and held that the Idaho Constitution prohibits a law enforcement officer from arresting an individual for a misdemeanor committed outside of the officer's presence. See State v. Clarke, 165 Idaho 393, ___, 446 P.3d 451, 457-58 (2019). In light of Clarke, Espinoza filed a motion to vacate his judgment and remand for further proceedings, and the state did not object. (See 8/29/2019 Stipulated Motion to Vacate Judgment of Conviction, Reverse Order, and Remand for Further Proceedings.) This Court denied the motion. (9/9/2019 Order Denying Stipulated Motion.)

ISSUE

Espinoza states the issue on appeal as:

Did the district court err by denying Mr. Espinoza's motion to suppress evidence obtained from his warrantless arrest for a completed misdemeanor?

(Appellant's brief, p.6.)

The state rephrases the issue as:

Does State v. Clarke, 165 Idaho 393, 446 P.3d 451 (2019), require this Court to vacate Espinoza's judgment and remand his case to the district court for further proceedings?

ARGUMENT

This Court's decision in State v. Clarke, 165 Idaho 393, 446 P.3d 451 (2019), requires the result that Espinoza seeks. Here, as in Clarke, the critical question is whether the Idaho Constitution prohibits an officer from arresting an individual on the basis of a misdemeanor committed outside of the officer's presence. (46160 R., pp.66-68.) The district court here held that the Idaho Constitution does not prohibit such an arrest for the same reasons the same district court reached the same conclusion in Clarke. (46160 R., pp.66-74.) This Court, however, disagreed with the district court's analysis in Clarke and held that an officer in Idaho cannot make an arrest based on a misdemeanor committed outside of his presence. See 165 Idaho at ____, 446 P.3d at 457-58.

The holding in Clarke means that the district court's analysis here was erroneous under the applicable law. Thus, the state agrees that this Court should vacate Espinoza's judgment and remand this case for further proceedings.

CONCLUSION

The state respectfully requests this Court vacate the district court's judgment and remand this case for further proceedings.

DATED this 7th day of January, 2020.

/s/ Jeff Nye
JEFF NYE
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 7th day of January, 2020, served a true and correct copy of the foregoing BRIEF OF RESPONDENT to the attorney listed below by means of iCourt File and Serve:

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