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Idaho Supreme Court
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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	
	)	**No. 47024-2019**
Plaintiff-Respondent,	)	
	)	**Kootenai County Case No.**
v.	)	**CR28-18-16962**
	)	
DAVID CHARLES ANDERSON,	)	
	)	
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 SCOTT L. WAYMAN
District Judge

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STATEMENT OF THE CASE

Nature Of The Case

David Charles Anderson appeals from the district court's denial of his motion to suppress evidence.

Statement Of The Facts And Course Of The Proceedings

The underlying facts, found by the district court at the suppression hearing, are as follows:

> On October 11th, 2018, the defendant [Anderson] was seated in his vehicle in a parking area near a bus stop in Coeur d'Alene, Idaho, located near Riverstone and Seltice Way.
>
> At the same time and location, Officer Herbig, in his capacity as a patrol officer with the Coeur d'Alene Police Department, was in that same parking area. Officer Herbig had parked his vehicle, his patrol vehicle with all the lights and spotlights and things well away from the defendant's vehicle. His vehicle in no way infringed upon the defendant's ability to move his vehicle forward or backward or simply drive away. There was no restriction of the defendant's vehicle by the police vehicle operated by Officer Herbig.
>
> Officer Herbig, again, referring to the [officer video admitted into evidence], had checked out a vehicle that had been parked there. Used his flashlight to look inside to see what there was, if anything, and then returned to his patrol vehicle. And then got out of his patrol vehicle and walked towards the pickup truck where the defendant was located.
>
> He carried his flashlight and walked up to the defendant's vehicle. The defendant, without being requested to[,] rolled down the driver's side window, he was seated in the driver's side of the vehicle. And what ensued after that I can only characterize as a friendly conversation.
>
> The tone of the officer was about as far away from demanding as could possibly be. His initial inquiry was simply, how's it going tonight? And the conversation then moved forward to where he was—that the defendant was waiting for his girlfriend. She had been to the casino. Just making casual small talk at that point.

> And then the officer, as he testified, said, "Do you have your ID on you?" The defendant responded "yes," and the officer then followed that up with, "Mind if I see it?"
>
> Again, the language that was used is important, as was the context and the actions as part of the overall scenario here, because this was never an order or a command, and the cooperative nature of the defendant was easily present. He handed over the ID and officer had it for approximately 30 seconds or less. Called in the name and information, and then very quickly handed it back to the defendant.
>
> The officer at some point, and it wasn't clear from the video, but shortly after he handed that license back or maybe even before got a little bit more information about the defendant, that he was on probation.
>
> And shortly after he handed it back to the defendant, he wanted to confirm that, are you still on probation? And again, there was a friendly discussion about, you know, probation, level one. Who's your probation officer? You know, what are you on probation for? The defendant said meth. They had a little discussion about, you know, what got the defendant into meth, how long had he been sober. Did you slam it or did you smoke it. Again, this was all indicative of a consensual conversation between the police officer and the defendant.
>
> There was never any show of force. There was never any threat of force, there was never any directions or discussions regarding anything up until this point. The defendant was totally cooperative. At some point in the conversation, Officer Herbig said, okay. If I can check you so I can tell your probation officer that you're good, not said in the form of a command. It was a question.
>
> And the officer said sure—or the—excuse me, the defendant said sure and cooperated fully. Got out. Submitted to a search, a cursory search for whatever the officer was looking for, and then once he finished that search, he said, "Mind if I check your car?" And the defendant said sure.

(Tr., p.40, L.16 – p.43, L.17.) Officer Herbig searched Anderson's truck and found a baggy of methamphetamine. (Tr., p.45, L.4-5.)

The state charged Anderson with possession of a controlled substance. (R., pp.30-31.) Anderson moved to suppress evidence, arguing that "Officer Herbig unlawfully seized Mr. Anderson when he took his ID and ran his information through dispatch … without any suspicion

that criminal activity was afoot." (R., p.39.) Anderson additionally argued that "[t]he drugs found in Mr. Anderson's vehicle during a search were a direct result of Officer Herbig's intentional violation of Mr. Anderson's Fourth Amendment rights," and was thus fruit of the poisonous tree. (R., pp.39-40.)

Following a hearing on Anderson's motion, the district court concluded that the "entire encounter up until the point that drugs were discovered was a consensual encounter" between Anderson and Officer Herbig. (Tr., p.46, Ls.5-7.) The court additionally found that the request to see Anderson's license was "a reasonable request," justified by several legitimate concerns, and was ultimately "a very de minimis detention of that driver's license." (Tr., p.47, Ls.1-9.) The district court went on to find that it did not think the request for the license "was an unreasonable request or that it constituted an unlawful detention because it was done with the consent of the defendant." (Tr., p.48, Ls.1-3.)

The district court found that "[t]hereafter, the request to search both person and vehicle were again done by consent," which Anderson never limited or revoked. (Tr., p.48, Ls.4-9.) The district court accordingly denied Anderson's motion to suppress. (Tr., p.48, Ls.10-13; R., p.69.)

Pursuant to a conditional plea agreement with the state, Anderson pleaded guilty to possession of methamphetamine. (R., p.61.) Anderson reserved the right to appeal from the district court's denial of his motion to suppress. (R., pp.63-64.) The district court sentenced Anderson to six years with three years fixed and placed him on probation. (R., pp.72-73.)

Anderson timely appealed. (R., pp.83-85.)

ISSUE

Anderson states the issue on appeal as:

> Did the district court err in denying Mr. Anderson's motion to suppress, where the evidence discovered was the fruit of the officer's suspicionless, unjustified detention of Mr. Anderson, and the State failed to establish the applicability of any exception to the exclusionary rule?

(Appellant's brief, p.6.)

The state rephrases the issue as:

Has Anderson failed to show the district court erred in denying his motion to suppress evidence?

ARGUMENT

Anderson Fails To Show The District Court Erred In Denying His Motion To Suppress Evidence

A. Introduction

Anderson claims that "Officer Herbig unlawfully detained Mr. Anderson when, without suspecting him of any traffic violation or other wrongdoing, or that he was in need of assistance, the officer walked up to Mr. Anderson who was sitting in his parked vehicle, and asked him for identification, took his driver's license, and then ran the license through police dispatch." (Appellant's brief, p.7.) Anderson thinks this was "an unlawful detention" that tainted the subsequent consent-based search of Anderson's vehicle, requiring suppression. (Id.)

This argument fails. "[R]equesting identification does not, without more, constitute a seizure." State v. Page, 140 Idaho 841, 844, 103 P.3d 454, 457 (2004). Thus, Anderson fails to show the district court erred when it concluded that the request to see the license was not "an unlawful detention" because Anderson "voluntarily consented to the driver's license being handed to the officer." (Tr., p.47, L.23 – p.48, L.3.)

Moreover, even if the request to see the license was a detention, it is well established that an officer may briefly detain "a driver to run a status check on the driver's license," even if the officer's legitimate reason for making contact "may have not amounted to reasonable suspicion that would have justified a detention at the outset of the encounter." State v. Landreth, 139 Idaho 986, 990-91, 88 P.3d 1226, 1230-31 (Ct. App. 2004). Because officers can properly detain drivers "to run a driver's license check after a legitimate consensual encounter," Id. at 991, 88 P.3d at 1231, Anderson fails to show there was an unlawful detention.

B. Standard Of Review

In reviewing a decision on a motion to suppress, the appellate court accepts the trial court's findings of fact that are supported by substantial evidence, but freely reviews the application of constitutional principles to those facts. State v. Diaz, 144 Idaho 300, 302, 160 P.3d 739, 741 (2007).

C. The District Court Correctly Concluded That Anderson Was Not Unlawfully Seized When The Officer Requested To See His License And Anderson Consented

The Fourth Amendment to the United States Constitution prohibits unreasonable searches and seizures by government officials. However, not every police-citizen encounter triggers Fourth Amendment scrutiny. "A seizure under the meaning of the Fourth Amendment occurs only 'when the officer, by means of physical force or show of authority, has in some way restrained the liberty of a citizen.'" State v. Nickel, 134 Idaho 610, 612-13, 7 P.3d 219, 221-22 (2000) (quoting Terry v. Ohio, 392 U.S. 1, 19 n.16 (1968)).

"When a defendant seeks to suppress evidence allegedly obtained as a result of an illegal seizure, the burden of proving that a seizure occurred is on the defendant." State v. Fuentes, 129 Idaho 830, 832, 933 P.2d 119, 121 (Ct. App. 1997) (citations omitted). The proper inquiry in determining whether a seizure occurred is "whether, under all the circumstances surrounding the encounter, a reasonable person would have felt free to leave or otherwise decline the officer's requests and terminate the encounter." State v. Reese, 132 Idaho 652, 653, 978 P.2d 212, 213 (1999) (citing State v. Fuentes, 129 Idaho 830, 832, 933 P.2d 119, 121 (Ct. App. 1997)). "'So long as a reasonable person would feel free to disregard the police and go about his business,' an encounter between police and an individual is consensual." Nickel, 134 Idaho at 613, 7 P.3d at 222 (quoting Florida v. Bostick, 501 U.S. 429, 434 (1991)).

Applying the above legal principles to the facts of this case, the district court correctly determined "the entire encounter up until the point the drugs were discovered was a consensual encounter between" Anderson and Officer Herbig. (Tr., p.46, Ls.3-7.) This includes the "obtaining of [Anderson's] identification," which was "consented to by" Anderson. (Tr., p.47, Ls.1-3.) Officer Herbig did not block Anderson's vehicle, activate his emergency lights, or use his "patrol vehicle's spotlight." (Tr., p.8, L.20 – p.11, L.2.) And Officer Herbig did not demand Anderson's license, issue an "order or a command" for the license, or otherwise compel him to provide it. (Tr., p.42, Ls.5-9.) Rather, Officer Herbig asked Anderson, "Do you have ID on you sir? Could I see that?" and Anderson said, "Yep," and gave Officer Anderson his driver's license. (Exhibit 1, 02:09-02:12.) Moreover, Officer Herbig testified that, if Anderson had refused to give him the license that he would not have "forced" Anderson to do so, and that it was "not uncommon" for officers to simply "walk away at that point or continue [the] conversation as long as they want to continue the conversation and then walk away." (Tr., p.13, L.22 – p.14, L.10.)

The district court therefore correctly found that Anderson's voluntary act of giving Officer Herbig his driver's license did not convert the consensual encounter into a seizure. (Tr., p.46, Ls.3-7.) "[R]equesting identification does not, without more, constitute a seizure." State v. Page, 140 Idaho 841, 844, 103 P.3d 454, 457 (2004); United States v. Drayton, 536 U.S. 194, 201 (2002) ("Even when law enforcement officers have no basis for suspecting a particular individual, they may pose questions, ask for identification, and request consent to search luggage—provided they do not induce cooperation by coercive means."). The fact that Officer Herbig held Anderson's license for 29 seconds while he ran a warrants check would only be sufficient to transform the contact into a seizure if a reasonable person would not feel free to "terminate the encounter." Id. Anderson could have easily asked for his license back; that he did

not do so does not mean he was seized.[1] See INS v. Delgado, 466 U.S. 210, 216 (1984) ("While most citizens will respond to a police request, the fact that people do so, and do so without being told they are free not to respond, hardly eliminates the consensual nature of the response.").

On appeal, Anderson fails to show that the district court erred in concluding that "the entire encounter," including the license exchange, was consensual. (Tr., p.46, Ls.3-7.) Anderson argues that individuals are invariably seized "upon surrendering" their driver's license to law enforcement. (Appellant's brief, p.8.) But this unforgiving standard ignores what the Idaho Supreme Court set forth in Page: that "[i]nterrogating a person concerning his identification *or requesting identification does not, without more, constitute a seizure*." 140 Idaho at 844, 103 P.3d at 457 (emphasis added). Given that this consensual encounter had nothing "more" to it—it was a "friendly conversation" with an officer who "was about as far away from demanding as could possibly be" (Tr,. p.41, Ls.16-20)—Anderson fails to show that the mere request for identification created a seizure.

Anderson additionally argues that the State "conceded" below that "Mr. Anderson was not free to disregard the officer's request but was required by statute to surrender his license to the officer," thus converting the consensual encounter into a detention. (Appellant's brief, pp.8-9 (citing Tr., p.33, Ls.18-25).)

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[1] The state recognizes the Page Court noted its prior decisions holding that "a limited detention does occur when an officer retains a driver's license or other paperwork of value." Page, 140 Idaho at 844, 103 P.3d at 457 (citations omitted). In Page, however, the officer retained Page's identification and returned to his patrol car to run a warrants check, id. at 843, 103 P.3d at 456, and the Court held Page was improperly detained once his license was retained, id. at 845, 103 P.3d at 458. Unlike Page, Officer Herbig did not take Anderson's license and return to his patrol car. Rather, he held Anderson's license for 29 seconds while Anderson chatted with him at arm's length. The state submits that, on these facts, any retention of Anderson's license was insufficient to convert the consensual encounter into a detention.

This is mistaken. The prosecutor did not concede that there was a detention; rather, he argued that the district court *could have* concluded there was a detention:

> The law does state that when an officer makes an otherwise legal contact with a driver of a vehicle, they're permitted to ask for the driver's license and the vehicle documents, at least under 49-316.
>
> So while we do have Officer Herbig here initiating a consensual encounter, I do have to recognize that under the case law, the Court *could* determine that the defendant was obligated to give Officer Herbig his driver's license, and that while that was happening, the Court *could* conclude and the law *may* support the fact that the defendant was detained at that point.
>
> However, I think [Godwin] and [Landreth] make it clear that *even if there was a detention*, albeit for 29 seconds, that detention was reasonable and supported by the law.

(Tr., p.33, L.14 – p.34, L.4 (emphasis added).)

Highlighting what the "Court *could* conclude" or what the "law *may* support" is not "concession"—not even close. Moreover, it is clear the state was making a prelude to an alternative argument when it stated "even if there was a detention," before discussing the same. (See id.)

Arguing in the alternative is not conceding a point. And the state is not bound by "concessions" that it never made below. Moreover, the district court decided the entire encounter, including the license exchange, was consensual, which preserves this issue for this Court's review. State v. Jeske, 164 Idaho 862, 436 P.3d 683, 689 (2019) (holding issues "argued to, or decided by, the district court … can form the basis for review by this Court"). Because the district court correctly found the request to see Anderson's license was part of a consensual encounter, Anderson fails to show any Fourth Amendment violation.

D. Even If Anderson Was Seized, Any Brief Detention That Occurred When Officer Herbig Took Anderson's Driver's License Was Reasonable And Did Not Violate Anderson's Fourth Amendment Rights

Even if this Court concludes Officer Herbig's request to see Anderson's driver's license converted the consensual encounter into a detention, see Page, 140 Idaho at 844, 103 P.3d at 457; State v. Godwin, 121 Idaho 491, 493, 826 P.2d 452, 454 (1992), it did not transform it into an *unlawful* seizure. Idaho's appellate courts have consistently held that the brief retention of a motorist's driver's license or other identifying paperwork during an otherwise lawful police contact is constitutionally reasonable because the intrusion upon the person's privacy interest is minimal when compared to the valid public/governmental interests, including the officer's need to properly identify the person with whom he is dealing, prepare accurate reports and ensure officer safety. Godwin, 121 Idaho at 493-94, 826 P.2d at 454-55; Landreth, 139 Idaho at 990, 88 P.3d at 1230; State v. Reed, 129 Idaho 503, 505-06, 927 P.2d 893, 895-96 (Ct. App. 1996); see also State v. Martinez, 136 Idaho 436, 439, 34 P.3d 1119, 1122 (Ct. App. 2001) ("[T]he police have a strong interest in identifying the individuals they come into contact with in any capacity.").

For example, in Landreth, the Idaho Court of Appeals held that, even absent any suspicion of criminal activity, an "officer could properly detain Landreth to run a driver's license check after a legitimate consensual encounter." 139 Idaho at 991, 88 P.3d at 1231. The officer in that case was dispatched to a grocery store parking lot in response to a report of a suspicious vehicle moving from parking space to parking space. Id. at 987, 88 P.3d at 1227. Upon his arrival, the officer observed the vehicle and observed that an extension cord was running from the hood of the vehicle to the wall of the grocery store. Id. The officer questioned the driver of the vehicle, Landreth, about his identity and purpose at the grocery store and also asked him for

identification. Id. When Landreth produced his driver's license, the officer relayed the "pertinent information" to dispatch and dispatch, in turn, advised the officer that Landreth had an outstanding arrest warrant. Id. The officer arrested Landreth on the warrant and, in a search incident to that arrest, found methamphetamine, marijuana and drug paraphernalia. Id.

Landreth moved to suppress the evidence, "claiming that his brief detention while the officer ran a driver's query violated his Fourth Amendment right to be free from unreasonable searches and seizures." Id. The district court denied the motion, and the Idaho Court of Appeals affirmed. Id. at 987-91, 88 P.3d at 1227-31. Citing Godwin, *supra*, the Court of Appeals recognized "[t]he Idaho Supreme Court has determined that a police officer's brief detention of a driver to run a status check on the driver's license, after making a valid, lawful contact with the driver, is reasonable for purposes of the Fourth Amendment." Landreth, 139 Idaho at 990, 88 P.3d at 1230 (citing Godwin, 121 Idaho at 495, 826 P.2d at 456.) Although a limited seizure occurs when an officer takes a motorist's license, "substantial public interests, including the officer's need to positively identify the person with whom he [is] dealing, outweigh[] the minimal police intrusion." Id. (citing Godwin, 121 Idaho at 495-96, 826 P.2d at 456-57). Moreover, "the Idaho statute authorizing officers to demand display of a driver's license, I.C. 49-316, includes the authority to run a status check on the license." Id. (citing Godwin, 121 Idaho at 495-96, 826 P.2d at 456-57).

Applying Godwin, the Court of Appeals concluded Landreth was not unlawfully detained when the officer took his driver's license and ran his information through dispatch. "Landreth was already stopped in the parking lot and willingly spoke with the officer," which meant the contact to the point the officer took Landreth's driver's license was a valid, consensual encounter. Landreth, 139 Idaho at 991, 88 P.3d at 1231. Because, under Godwin, "an officer's

brief detention of a driver to run a status check on the driver's license, after making a valid, lawful contact with the driver, is reasonable for purposes of the Fourth Amendment," the Court of Appeals held the brief detention of Landreth to run a status check on his driver's license was constitutionally reasonable. Id. In so holding, the Court cautioned its decision did "not countenance officers initiating 'consensual contacts' with individuals merely in order to follow that contact with a request for identification to run a license check or a warrants check." Id. This was not a concern in Landreth's case, however, because "the officer had a legitimate reason to make contact with Landreth, even though that reason may not have amounted to reasonable suspicion that would have justified a detention at the outset of the encounter." Id.

Landreth controls the outcome here. Like the officer in Landreth, Officer Herbig made a valid, lawful contact with Anderson, who was already stopped and willingly spoke with him. (Tr., p.40, L.16 – p.41, L.18.) And like the encounter in Landreth, the interaction between Officer Herbig was consensual and not a detention. (Tr., p.46, Ls.3-9). Officer Herbig asked for Anderson's identification so that he could "identify who [he] was talking to" (Tr., p.13, L.14), which is a "substantial public interest[]" recognized by Idaho courts. Id. at 990, 88 P.3d at 1230. Moreover, there is no information in the record that shows Officer Herbig initiated the consensual contact with Anderson "merely *in order* to follow that contact with a request for identification to run a license check or a warrants check." Landreth, 139 Idaho at 991, 88 P.3d at 1231 (emphasis added). There is likewise no evidence to support Anderson's claim that "the record is clear that he detained Mr. Anderson solely for the purpose of obtaining his identification and running it through police dispatch." (Appellant's brief, p.12.)

Because the officer made consensual contact with Anderson, and because there's no indication he contacted Anderson "merely in order" to request his driver's license, this was a

"valid, lawful" contact. Landreth, 139 Idaho at 991, 88 P.3d at 1231. Thus, the "brief detention" of Anderson to "run a status check on the driver's license" was reasonable under the Fourth Amendment. Id.

Recognizing the need to distinguish Godwin and Landreth, Anderson argues those cases involved license checks "tethered to the valid traffic stop" or following some "'legitimate reason' for initiating the contact." (Appellant's brief, p.13.) The former contention is incorrectly narrow; the Godwin Court did not hold that a valid *traffic stop* is required—only that an "initial, lawful contact" precede the license request. 121 Idaho at 495, 826 P.2d at 456. And the latter claim is technically correct, but incorrectly applied. Anderson appears to equate "legitimate reason" to "suspicious circumstances." (See Appellant's brief, p.13 (citing the "suspicious activity in the parking lot" and "possible suspected theft" in Landreth as the justification for the officer contact there).) This cannot be correct. The Landreth Court specifically held that an officer's justification for the contact "may not have amounted to reasonable suspicion," but need only be a "legitimate reason." 139 Idaho at 991, 88 P.3d at 1231. Moreover, the Court made it crystal clear that the consensual contact *itself* could be the legitimate backdrop for the stop—its explicit holding was that "the officer could properly detain Landreth to run a driver's license check after a legitimate consensual encounter." Id.

So the fact that there was no traffic stop here, and no suspicious circumstances, is of no moment. There is no dispute that Officer Herbig made lawful consensual contact with Anderson. No evidence shows that the officer contacted Anderson *in order* to check for his license or that the officer was otherwise acting unreasonably under the circumstances. Because there was a valid, lawful contact with Anderson preceding the request for his license, this case falls squarely

within Godwin and Landreth, and any brief detention was reasonable under the Fourth Amendment. Anderson fails to show otherwise.

Finally, Anderson fails to show that Cohagan[2] or Page, where a license request was found unlawful, would control the outcome here. Cohagan and Page are readily distinguishable, insofar as the tighter standards found in those cases apply to officer encounters with *pedestrians*—not drivers.

The Idaho Supreme Court made this distinction explicit. In Page, the defendant was "walking down the middle of a roadway" when officers approached him and asked for his driver's license. 140 Idaho at 842, 103 P.3d at 455. The Court concluded that Godwin—where officers stopped a *driver*—did not "lend support to the legality of the seizure of Page's driver's license." Id. at 845, 103 P.3d at 458.

The Page Court went on to explain that "the Court in *Godwin* was heavily influenced by the fact that I.C. § 49-316 requires a driver to surrender a driver's license to a police officer upon demand and that '[t]he statutory authority for police to demand a driver's license would mean little if the police could not check the validity of the license.'" 140 Idaho 841, 845, 103 P.3d 454, 458. The Court went on to find that "[n]o equally compelling policy or statutory authority can be cited in the case of seizing a license *from a pedestrian*." Id. (emphasis added). And the Court admonished the state for not "distinguish[ing] the policy differences between *taking a driver's license from the operator of an automobile*, and taking *any form of identification from a pedestrian*." (emphasis added). After reiterating that a license request "must be reasonable under the circumstances" (which meant that officers naturally did not have "unfettered discretion

[2] State v. Cohagan, 162 Idaho 717, 404 P.3d 659 (2017).

to stop drivers and request a display of a driver's license"), the Court concluded that the seizure of Page was unreasonable:

> In this case, the totality of the circumstances presented to Officer Marshall showed no compelling need to seize the identification and conduct a warrants check; nor were there facts present that legitimized the detention of Page once the officer determined, pursuant to his community caretaker function, that Page was not in need of assistance. Appellant has also not demonstrated a particularized or objective justification for detaining Page. This Court is concerned about the implications of a rule allowing law enforcement officers the ability to initiate consensual encounters *with pedestrians* in order to seize identification and run a warrants check.

Id. (emphasis added).

In Cohagan, the Idaho Supreme Court reiterated that Page dealt with "the illegality of seizing identification belonging to a pedestrian not suspected of criminal conduct":

> [In Page] [w]e held that there was "[n]o equally compelling policy or statutory authority" that would support seizure of a driver's license *from a pedestrian*. We then took note of our statement in *Godwin* "that 'police officers do not have unfettered discretion to stop drivers and request a display of a driver's license' to conduct a random status and/or warrants check." Most significantly, we expressed concern "about the implications of a rule allowing law enforcement officers the ability to initiate consensual encounters with pedestrians in order to seize identification and run a warrants check."

162 Idaho at 725, 404 P.3d at 667 (internal citations omitted, emphasis added).

None of these concerns are applicable here. Because Anderson was sitting in the driver's seat of his car there is a substantial public interest in allowing the officer to briefly see his driver's license. See Godwin, 121 Idaho at 496, 826 P.2d at 457. Anderson was already stopped and was engaging the officer in a pleasant, consensual conversation, and there is no evidence that the officer was randomly "stop[ping] drivers" in a display of unfettered discretion gone wild. Cohagan, 162 Idaho at 725, 404 P.3d at 667. And any concerns the Cohagan Court had about

"the ability to initiate consensual encounters with pedestrians" (id.), are simply inapplicable here—Anderson was not a pedestrian.

Thus, this case is controlled by Godwin and Landreth. Officer Herbig had a legitimate, consensual contact with Anderson preceding the request to see the license. And a "brief detention of a driver to run a status check on the driver's license, after making a valid, lawful contact with the driver, is reasonable for purposes of the Fourth Amendment"—full stop. Godwin, 121 Idaho at 495, 826 P.2d at 456. Because the request to see the license was reasonable under the Fourth Amendment there was no Constitutional violation here, and Anderson fails to show otherwise.

CONCLUSION

The state respectfully requests this Court affirm the district court's denial of Anderson's motion to suppress evidence.

DATED this 6th day of February, 2020.

/s/ Kale D. Gans
KALE D. GANS
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 6th day of February, 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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/s/ Kale D. Gans
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Deputy Attorney General

KDG/dd