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State v. Coronado Appellant's Reply Brief Dckt. 47391

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

STATE OF IDAHO,	)	
	)	
Plaintiff-Respondent,	)	**NO. 47391-2019**
	)	
v.	)	**CANYON COUNTY NO. CR14-18-23766**
	)	
ANTONIO CORONADO,	)	**REPLY BRIEF**
	)	
Defendant-Appellant.	)	
	)	

REPLY BRIEF OF APPELLANT

APPEAL FROM THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON

HONORABLE CHRISTOPHER S. NYE
District Judge

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STATEMENT OF THE CASE

Nature of the Case

Antonio Coronado asserts that the district court erred by denying his motion to suppress. An officer pulled up behind Mr. Coronado with his emergency lights and flashers activated, while Mr. Coronado was parked on a residential street. During the encounter, the officer saw Mr. Coronado move an empty beer can, and the officer began an investigation for DUI. The district court denied the motion to suppress evidence, finding that the encounter was consensual and, alternatively, if Mr. Coronado was seized by remaining in his vehicle when the officer activated his emergency lights, that the officer had reasonable, articulable suspicion that Mr. Coronado was engaged in criminal wrongdoing such that his seizure was lawful. Mr. Coronado contends that the district court erred by denying his motion to suppress.

This Reply Brief is necessary to address the State's "community caretaking" argument, which finds no support in the facts of this case. (Resp. Br., pp.22-25.)

Statement of the Facts and Course of Proceedings

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

ISSUE

Did the district court err when it denied Mr. Coronado's motion to suppress?

ARGUMENT

The District Court Erred When It Denied Mr. Coronado's Motion To Suppress Where The Encounter Was Non-Consensual And Officer Heaton Did Not Have Reasonable Articulable Suspicion That Mr. Coronado Was Violating Idaho Law At The Time Of The Seizure

On appeal, the State asserts, in part, that Officer Heaton's actions were justified by the "community caretaking function." (Resp. Br., pp.22-24.) In denying the motion to suppress, the district court "did not reach the issue regarding the community caretaking function." (R., p.85.) Mr. Coronado asserts that the State failed to justify his warrantless seizure under the guise of the officer's "community caretaking function," where the officer was responding to a report of a suspicious vehicle, and was not making contact with Mr. Coronado due to a concern for his welfare.

"The Fourth Amendment of the United States Constitution protects citizens from unreasonable search and seizure." *State v. Hansen*, 138 Idaho 791, 796 (2003). "Article I, Section 17 of the Idaho Constitution nearly identically guarantees that '[t]he right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated.'" *State v. Green*, 158 Idaho 884, 886 (2015) (alteration in original). A warrantless search is presumptively unreasonable, unless it falls within "one of several narrowly drawn exceptions." *State v. Anderson*, 154 Idaho 703, 706 (2012). The State bears the burden of demonstrating a warrantless search or seizure falls into an exception to the warrant requirement. *State v. Worthington*, 138 Idaho 470, 472 (Ct. App. 2002).

This prohibition against unreasonable searches and seizes applies to "community caretaking" functions as well as investigatory stops. The term "community caretaking functions," as it relates to the list of duties of law enforcement officers was first used by the United States Supreme Court in a search and seizure scenario in *Cady v. Dombrowski*, 413 U.S.

433 (1973). The term describes one of the many duties that law enforcement officers have, including the duty to investigate and prevent crime. In *Cady*, the defendant crashed a 1967 Thunderbird,[1] a passing motorist took him to a tavern in town, and the defendant called the local police. *Id.* 413 U.S. at 435-36. The police picked up the defendant, noticed he appeared intoxicated, and drove him to the scene of the accident. *Id.* at 436. The defendant informed the police that he too was a police officer from the city of Chicago. *Id.* The officers believed that regulations required Chicago police officers to carry their service revolver at all times, the defendant did not have his revolver on him, and the officers could not find it after searching the front seat and the glove compartment of the Thunderbird. *Id.* The Thunderbird was towed. *Id.* The defendant was taken to a local hospital where he lapsed into a coma. *Id.* Later that night, officers went to the tow yard to search for the missing revolver and, in the process, found evidence linking the defendant to a murder. *Id.* at 436-37.

The issue for the *Cady* Court's determination was whether the officers' warrantless search of the Thunderbird violated the defendant's Fourth Amendment Right to be free from the unreasonable search and seizure of his car. *Id.* at 442. The Court analyzed the warrantless search:

> Local police officers, unlike federal officers, frequently investigate vehicle accidents in which there is no claim of criminal liability and engage in what, for want of a better term, may be described as community caretaking functions, totally divorced from the detection, investigation, or acquisition of evidence relating to the violation of a criminal statute.

Id. at 441.

In determining whether the warrantless seizure and eventual search of the Thunderbird was reasonable, the Court analyzed two factual considerations: First, the police took custody and

[1] The Court's identification of the model and year of the car was necessary in the Court's opinion because a separate search of a 1960 Dodge took place. *See Cady*, *generally*.

control of the Thunderbird after it had been disabled on the side of the road and was a nuisance along the highway, and knowing the defendant was intoxicated and later comatose and unable to arrange for its removal; Second, the search of the trunk for the defendant's revolver was pursuant to a standard procedure within the police department. *Id.* at 442-43. The Court ultimately determined that the search of the Thunderbird was not "unreasonable" and, therefore, did not violate the defendant's Fourth Amendment rights. *Id.* at 448.

The *Cady* decision did not stand for the proposition that the "community caretaking function" of local and State police officers, in and of itself, is an exception to the warrant requirement. When discussing a "community caretaking function," the *Cady* Court's focus was on the reasonableness of seizing and ultimately searching vehicles, not people. *Id.* 413 U.S. at 443-46. The *Cady* Court held:

> The Court's previous recognition of the distinction between motor vehicles and dwelling places leads us to conclude that the type of caretaking 'search' conducted here of a vehicle that was neither in the custody nor on the premises of its owner, and that had been placed where it was by virtue of lawful police action, was not unreasonable solely because a warrant had not been obtained.

Id. 413 U.S. at 447-48.

Later United States Supreme Court cases make clear that the *Cady* decision is not a foundation for a general "community caretaking" exception to the warrant requirement; rather, the "community caretaking function" is a part of the foundation for the "inventory search" exception to the warrant requirement. *See South Dakota v. Opperman*, 428 U.S. 364 (1976) (analyzing the history of Supreme Court precedent applying the Fourth Amendment to automobiles, including *Cady*, and finding that a routine search of a vehicle lawfully impounded for a parking violation did not violate the Fourth Amendment.); *see also Colorado v. Bertine*, 479 U.S. 367 (1987) (citing to *Cady* and *Opperman* among other precedent, and upholding an

inventory search of a van seized after the driver was arrested for driving under the influence as it was conducted pursuant to a policy articulating standardized criteria, even though the officers had discretion whether to impound the vehicle, as there was no showing of bad faith on the part of the officers.) In sum, the *Cady* decision did not announce a general "community caretaking functions" exception to the warrant requirement.

While the United States Supreme Court in *Cady* limited its brief discussion of community caretaking to the investigation of vehicle accidents, Idaho courts have expansively interpreted this to permit officers to generally inquire into the health and safety of drivers, and even pedestrians. *See State v. Godwin*, 121 Idaho 491, 493-94 (1992); *State v. Page*, 140 Idaho 841, 844 (2004).

In *Matter of Clayton*, 113 Idaho 817 (1988), an officer saw a vehicle in a parking lot adjacent to a bar with the engine running, the headlights on, and a person sitting in the driver's seat with his head slumped forward. *Id.* 113 Idaho at 818. The officer decided to see if the person needed medical attention, was asleep, or was intoxicated, so he opened the door, reached in, turned off the motor and took possession of the keys. *Id.* After several minutes of loudly speaking and shaking the defendant, the defendant awoke and after further investigation was arrested for driving under the influence. *Id.*

The Idaho Supreme Court reasoned that the officer had a duty to investigate, citing *Cady* as precedent, and found that "[t]he driver could have been hurt or sick, and in need of medical attention. Officer Moser acted prudently and satisfied his caretaking function when investigating the vehicle." *Id.* (citing *Cady*, 413 U.S. at 441.) The Court concluded "Officer Moser's actions were consistent with his caretaking function. It is reasonable to assume that he acted out of concern for Clayton's safety in securing the vehicle." *Id.* 113 Idaho at 818.

As articulated above, the *Cady* decision did not involve the seizure of a person; rather, it involved the seizure of *effects*, specifically a vehicle, and is part of a line of cases that describe the "inventory search" exception to the warrant requirement. To justify the seizure under the community care taking function, such a seizure must be "totally divorced from the detection, investigation, or acquisition of evidence relating to the violation of a criminal statute." *Cady*, 413 U.S. at 441. Under *Cady*, when an officer's actions are not totally divorced from the detection, investigation, or acquisition of evidence of a crime, a seizure cannot be justified as being related to the "community caretaking function."

In *State v. Osborne*, 121 Idaho 520 (Ct. App. 1991), the Idaho Court of Appeals applied the plain language of *Cady* and found that the officers' seizure of the defendant could not be justified under the community caretaking doctrine, as the officers seized the defendant in furtherance of an investigation into a report that someone was shooting out lights at a nearby lumberyard. *Id.* 121 Idaho at 526. The *Osborne* Court observed "virtually any time a field officer conducts an investigative detention, it may be said that the officer is acting on behalf, and for the protection, of the community." *Id.* However, in order for the community caretaking function analysis to apply, the officers' activity must be "'totally divorced from the detection, investigation, or acquisition of evidence relating to the violation of a criminal statute.'" *Id.* (quoting *Cady v. Dombrowski*, 413 U.S. at 441.) The Court of Appeals reached a similar conclusion in *State v. Fry*, 122 Idaho 100 (Ct. App. 1991), where officers seized two people who were sitting in a parked truck located in a parking lot, as neither officer entertained a belief that the people in the car needed any assistance. *Id.* at 104; *see also State v. Schmidt*, 137 Idaho 301, 304 (2002) (holding facts insufficient to justify seizure of vehicle under community caretaking

function where there were no indications that the occupants of the vehicle needed assistance and vehicle was parked a safe distance from the road with its lights off).

The Idaho Supreme Court has found that when analyzing a seizure under the "community caretaking justification," the reviewing court must look to the totality of the circumstances and must determine "'whether the intrusive action of the police was reasonable in view of all the surrounding circumstances.'" *State v. Wixom*, 130 Idaho 752, 754 (1997) (citing *Clayton*, 113 Idaho at 818-19; and quoting *State v. Waldie*, 126 Idaho 864, 867 (Ct. App. 1995)).

While an officer may claim the encounter began with a community caretaking purpose from which he or she then developed reasonable, articulable suspicion of criminal wrongdoing, the community caretaking is not an alternative to the warrant requirement. As such, if an officer testifies they were in the location to investigate suspicious conduct, the State cannot then argue in the alternative—that the encounter was reasonable because the officer engaged with the defendant for community caretaking purposes. *See Osborne*, 121 Idaho at 526; *see also State v. Maddox*, 137 Idaho 821, 824 (Ct. App. 2002) (holding community caretaking function is "totally divorced from the detection, investigation, or acquisition of evidence relating to the violation of a criminal statute."); *Wixom*, 130 Idaho at 754 (holding that the community caretaking function arises from the duty of police officers to help citizens in need of assistance).

Here, Officer Heaton responded to a report of a vehicle in a residential neighborhood changing parking spots, and the driver sitting in the vehicle with it running and music playing. (3/8/19 Tr., p.7, L.20 – p.8, L.5.) The district court found "On November 24, 2018, at around 9:40 a.m., Shirley McCreary called non-emergency dispatch to report a "suspicious" blue pickup truck in her neighborhood, near Iowa Ave. and Beech St. in Caldwell." (R., p.76.) The court found that the complaining party "reported the suspicious vehicle, but did not report a crime or

other apparent criminal activity." (R., p.77.) Regarding the officer's testimony as to what he was doing, the district court found:

> Ofc. Heaton testified that dispatch often receives suspicious vehicle calls and that his initial impression of the situation was that the driver was probably lost or looking for a work site. The officer thought it was likely and innocent situation and did not necessarily suspect criminal activity. However, he testified that the circumstances reported to dispatch could be indicative of criminal activity, like theft or burglary, or of someone needing assistance. He testified that when he found the "suspicious" vehicle, he wanted to talk to the driver to discern what was going on.

(R., p.77.) Officer Heaton was investigating. (State's Exhibit 1, 00:12-00:15.) Mr. Coronado's vehicle was lawfully parked—it was not parked partially in the roadway as in the case of *State v. Mireles*, 133 Idaho 690, 693 (Ct. App. 1999), thus, there were no traffic safety reasons to make contact with Mr. Coronado. Nor was there any reason to believe that Mr. Coronado was in need of a welfare check or medical assistance. The bodycam video admitted into evidence at the suppression hearing, State's Exhibit 1, shows Officer Heaton, armed and wearing his police uniform, walking up to Mr. Coronado. (3/8/19 Tr., p.14, L.4; State's Exhibit 1.) He approached the driver's window, saying, "How's it going? Hey, Officer Heaton of the [ ] police department. We got a call, someone called and was complaining about you sitting out here, and they were nervous." (State's Exhibit 1, 00:12-00:15.) Officer Heaton did not ask Mr. Coronado if he was okay; nor did he testify that he was concerned that Mr. Coronado might be unwell or needing medical assistance. (*See* 3/8/19 Tr., *generally*.) Officer Heaton was investigating a report of a suspicious vehicle, he was not checking on the welfare of Mr. Coronado and there is no evidence to support the State's community caretaking contention. Like the facts of *Osborne*, Officer Heaton made contact with Mr. Coronado pursuant to an investigation, thus their encounter could not be for community caretaking purposes. 121 Idaho at 526.

Accordingly, the evidence does not support the State's assertion that Officer Heaton stopped Mr. Coronado to perform a community caretaking function.

CONCLUSION

Mr. Coronado respectfully requests that this Court vacate the district court's order of judgment and commitment and reverse the order which denied his motion to suppress.

DATED this 21st day of July, 2020.

/s/ Sally J. Cooley
SALLY J. COOLEY
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of July, 2020, I caused a true and correct copy of the foregoing APPELLANT'S REPLY BRIEF, to be served as follows:

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SJC/eas