

Uldaho Law

Digital Commons @ Uldaho Law

Not Reported

Idaho Supreme Court Records & Briefs

11-30-2020

State v. Wheeler Appellant's Brief Dckt. 48043

Follow this and additional works at: https://digitalcommons.law.uidaho.edu/not_reported

Recommended Citation

"State v. Wheeler Appellant's Brief Dckt. 48043" (2020). *Not Reported*. 6766.
https://digitalcommons.law.uidaho.edu/not_reported/6766

This Court Document is brought to you for free and open access by the Idaho Supreme Court Records & Briefs at Digital Commons @ Uldaho Law. It has been accepted for inclusion in Not Reported by an authorized administrator of Digital Commons @ Uldaho Law. For more information, please contact annablaine@uidaho.edu.

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 48043-2020
Plaintiff-Respondent,)	
)	TWIN FALLS COUNTY
)	NO. CR42-19-9172
v.)	
)	
REBECCA DAWN WHEELER,)	APPELLANT'S BRIEF
)	
Defendant-Appellant.)	
_____)	

BRIEF OF APPELLANT

**APPEAL FROM THE DISTRICT COURT OF THE FIFTH JUDICIAL
DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE
COUNTY OF TWIN FALLS**

HONORABLE ROGER B. HARRIS
District Judge

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

KIMBERLY A. COSTER
Deputy State Appellate Public Defender
I.S.B. #4115
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 In Denying Ms. Wheeler’s Motion To Suppress.....	5
A. Introduction	5
B. Standard Of Review.....	5
C. The State Failed To Carry Its Burden Of Demonstrating That The Warrantless Entry Of Ms. Wheeler’s Residence Was Constitutionally Reasonable	6
CONCLUSION.....	7
CERTIFICATE OF SERVICE	8

TABLE OF AUTHORITIES

Cases

Payton v. New York, 445 U.S. 573 (1980) 1, 6

State v. Bishop, 146 Idaho 804 (2009) 5

State v. Dycus, 154 Idaho 456 (Ct. App. 2013) 6

State v. Guzman, 122 Idaho 981 (1992) 6

State v. Henage, 143 Idaho 655 (2007) 5

State v. Maland, 140 Idaho 817 (2004) 6

State v. Northover, 133 Idaho 655 (Ct. App. 1990) 6

Wong Sun v. United States, 371 U.S. 471 (1963) 6

STATEMENT OF THE CASE

Nature of the Case

Rebecca Dawn Wheeler appeals the district court's denial of her motion to suppress evidence obtained after officers entered the bedroom of her home, without a search warrant and without her consent, in order to execute a warrant for her arrest. Ms. Wheeler acknowledges that an arrest warrant "implicitly carries with it the limited authority to enter a dwelling in which the suspect lives when there is reason to believe the suspect is within." *Payton v. New York*, 445 U.S. 573, 602-03 (1980). However, and mindful of the district court's factual findings that the officers had entered the residence after confirming that the address was the same as the address on Ms. Wheeler's driver's license, and after being informed by a woman in the driveway that Ms. Wheeler was inside, Ms. Wheeler claims that the officers' intrusion into her home violated her Fourth Amendment rights. She respectfully requests that the order denying suppression be reversed.

Statement of the Facts and Course of Proceedings

On September 12, 2019, at approximately 10:30 in the morning, two Twin Falls Police Officers, Nate Egan and Martin Becerra, were dispatched to an address on Adams Street in response to a 911 call. (12/6/19 Tr., p.13, Ls.18-24.)¹ According to the dispatch officer, the caller reported that she lived with Ms. Wheeler at that address, that Ms. Wheeler was currently at the home, at that Ms. Wheeler had an arrest warrant. (9/20/19 Tr., p.5, L.4 – p.13, L.4.) The caller provided her first name and her phone number, and said she was Ms. Wheeler's sister.

¹ There are three transcripts relevant to this appeal. The transcript of the suppression hearing, held December 6, 2019 ("12/6/19 Tr."), the transcript of the guilty plea hearing, held February 18, 2019 ("2/18/2020 Tr."), and the transcript of the preliminary hearing, held September 20, 2019 ("9/20/19 Tr."). The transcript of the preliminary hearing transcript, which was admitted as an exhibit at the suppression hearing, is contained within the Exhibits, at pages pp.24-54.

(9/20/19 Tr., p.5, Ls.4-25; State's Exhibit 1 (911 call recording).) Prior to arriving at the Adams Street address, Officer Egan confirmed on his in-car computer that Ms. Wheeler had an active arrest warrant.² (12/6/19 Tr., p.14, Ls.9-22; *see* Ex., pp.1-4 (Exhibit A).) Additionally, Officer Egan pulled up Ms. Wheeler's driver's license information, including her photo, "as well as her name, date of birth, home address, and then her physical description." (12/6/19 Tr., p.15, Ls.7-23.) He noted that the Adams Street address was the same as the address on Ms. Wheeler's driver's license. (12/6/19 Tr., p.15, L.23 – p.16, L.1; *see* Ex., pp.5-7 (Exhibit C).)

When the officers arrived at the Adams Street address, Officer Egan encountered a woman in the driveway who had come from the back of the house. (12/6/19 Tr., p.18, L.10 – p.19, L.2.) The woman claimed to be the person who had made the call, although the officers did not verify her identity at that time. (12/6/19 Tr., p.17, L.20 – p.19, L.2, p.25, Ls.5-13.) The woman told Officer Egan that he could find Ms. Wheeler in the basement bedroom by going through the backdoor of house and she gave directions to that room; then the woman got in her car and drove away. (12/6/19 Tr., p.17, L.20 – p.22, L.23.)

The two officers went into the home through the unlocked backdoor and walked toward the bedroom. (State's Ex.1 (Officer Egan's Bodycam video ("Video") at 0:14-55.) Through an open door, Officer Egan recognized Ms. Wheeler from her driver's license photo, then entered the bedroom and arrested her. (9/20/19 Tr., p.15, Ls.11-15; 9/20/19 Tr., p.15, Ls.11-15, p.23, Ls.4-25; Video, 0:55-3:00.) Officer Egan also seized apparent drug evidence from the table in front of Ms. Wheeler, and he searched inside the purse Ms. Wheeler was wearing, finding other drug evidence. (9/20/19 Tr., p.7, L.4 – p.8, L.12.)

² Ms. Wheeler does not dispute the validity of the arrest warrant.

The State charged Ms. Wheeler with two counts of possessing controlled substances and one count of possessing drug paraphernalia. (R., pp.11-12.) Ms. Wheeler filed a motion to suppress, contending that the officers' conduct was unreasonable under the Fourth Amendment, because the officers had entered her home and bedroom without a search warrant, without her consent, and without other valid consent or authority. (R., pp.26-28.) She additionally submitted a memorandum in support of her motion. (*See* Ex., pp.13-31 (Exhibit E).)³

Following an evidentiary hearing, in a ruling from the bench, the district court denied Ms. Wheeler's motion. (12/6/19 Tr., p.57, L.7.) The court observed that "arrest warrant[s] . . . carry with them the limited authority to enter a dwelling in which the suspect lives when there is reason to believe the suspect is within." (12/6/19 Tr., p.51, Ls.10-13.) The district court went on to find that the officer's confirmation of the Adams Street address as the address on Ms. Wheeler's driver's license, and the information from dispatch along with the information from the woman in the driveway, supported a reasonable belief that Ms. Wheeler lived at the residence and could be found inside. (12/6/19 Tr., p.51, L.14 – p.53, L.4.)⁴ Ms. Wheeler subsequently entered a conditional guilty plea, admitting all charges and expressly reserving her right to appeal the district court's decision denying her suppression motion. (R., p.76; 2/28/2020 Tr., p.5, L.22 - p.20, L.25.) The district court sentenced Ms. Wheeler to a suspended sentence of six years, with three years fixed, and placed her on probation. (R., pp.97-105.)

Ms. Wheeler filed a timely Notice of Appeal. (R., p.106.)

³ Pursuant to the parties' stipulation, Ms. Wheeler's supporting memorandum was submitted as an exhibit at the hearing. (12/6/19 Tr., p.58, L.21 – p.L.7; Ex, pp.13-54 (Exhibit E).)

⁴ The district court additionally found that the officers had obtained valid consent to enter the residence from the woman in the driveway, specifically finding that the woman had apparent authority to give consent to enter the house and its common areas. (12/6/19 Tr., p.53, Ls.5-25, p.57, Ls.10-16.)

ISSUE

Did the district court err in denying Ms. Wheeler's motion to suppress?

ARGUMENT

The District Court Erred In Denying Ms. Wheeler's Motion To Suppress

A. Introduction

Ms. Wheeler claims the officers violated her Fourth Amendment right when, without a search warrant and without obtaining valid consent, the officers entered her home and came into her bedroom. Though she does not dispute that the officers' purpose was to execute a warrant for her arrest, she asserts the officers' conduct was constitutionally unreasonable, and that the district court's contrary conclusions are erroneous. She asks this Court to reverse the district court's order denying suppression, to vacate her judgment of conviction, and to remand her case to the district court.

B. Standard Of Review

When reviewing a trial court's order granting or denying a defendant's motion to suppress, the appellate court defers to the trial court's findings of fact unless they are clearly erroneous. *State v. Bishop*, 146 Idaho 804, 810 (2009). Factual findings supported by substantial and competent evidence are not clearly erroneous. *State v. Henage*, 143 Idaho 655, 659 (2007). "Decisions regarding the credibility of witnesses, weight to be given to conflicting evidence, and factual inferences to be drawn are also within the discretion of the trial court." *Bishop*, 146 Idaho at 804. However, the appellate court maintains free review over whether the facts surrounding a search and seizure satisfy constitutional requirements. *Henage*, 143 Idaho at 658.

C. The State Failed To Carry Its Burden Of Demonstrating That The Warrantless Entry Of Ms. Wheeler’s Residence Was Constitutionally Reasonable

As recognized by the Idaho Supreme Court,

The Fourth Amendment protects the individual’s privacy in a variety of settings. In none is the zone of privacy more clearly defined than when bounded by the unambiguous physical dimensions of an individual’s home—a zone that finds its roots in clear and specific constitutional terms: ‘The right of the people to be secure in their ... houses ... shall not be violated.’ That language unequivocally establishes the proposition that ‘at the very core of the Fourth Amendment stands the right of a man to retreat into his own home and there be free from unreasonable governmental intrusion.’ In terms that apply equally to seizures of property and to seizures of persons, the Fourth Amendment has drawn a firm line at the entrance to the house. Absent exigent circumstances, that threshold may not reasonably be crossed without a warrant.

State v. Maland, 140 Idaho 817, 822 (2004) (quoting *Payton v. New York*, 445 U.S. at 589) (citations and internal brackets omitted).

Evidence obtained in violation of Fourth Amendment protections is subject to the exclusionary rule, which requires the suppression of both primary evidence obtained as a direct result of an illegal search or seizure, and evidence later discovered and found to be derivative of an illegality, that is, “fruit of the poisonous tree.” See *Wong Sun v. United States*, 371 U.S. 471, 484–85 (1963); *State v. Guzman*, 122 Idaho 981, 988-98 (1992).

However, an arrest warrant “implicitly carries with it the limited authority to enter a dwelling in which the suspect lives when there is reason to believe the suspect is within.” *Payton* 445 U.S. at 602-03; accord *State v. Dycus*, 154 Idaho 456, 459 (Ct. App. 2013); *State v. Northover*, 133 Idaho 655, 658 (Ct. App. 1990). As explained in *Northover*, “[t]he same conduct that is deemed unreasonable, and thus violative of the constitution, in the absence of a warrant, may be deemed reasonable when the police are acting under the authorization of a warrant.” 133 Idaho 655, 658 (Ct. App. 1990).

In this case, the district court concluded that the officers' purpose for entering the residence was to execute the arrest warrant and that the officers had sufficient facts to support a reasonable belief that Ms. Wheeler lived at the residence and was presently inside. (12/6/19 Tr., p.51, L.14 – p.53, L.4.) Specifically, the court found that the officers had confirmed the address of the residence was the address on Ms. Wheeler's driver's license, and that when the officers arrived at the residence, a person coming from the residence confirmed that Ms. Wheeler was inside. (12/6/19 Tr., p.51, L.14 – p.53, L.4.) Mindful of these findings, which are supported by the evidence in the record (*see generally* 12/6/19 Tr., p.11, L.5 – p.42, L.8; Exhibits, pp.1-12), Ms. Wheeler asserts the officers' intrusion into her home, and specifically into her bedroom, violated her constitutional rights, and that the district court erred in failing to suppress the evidence resulting from that violation.

CONCLUSION

Ms. Wheeler respectfully asks this Court to reverse the district court's order denying her motion to suppress, and remand her case to the district court so that she may withdraw her guilty plea, in accordance with the terms of her plea agreement.

DATED this 30th day of November, 2020.

/s/ Kimberly A. Coster
KIMBERLY A. COSTER
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of November, 2020, 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

KAC/eas