UIdaho Law
Digital Commons @ UIdaho Law

Not Reported | Idaho Supreme Court Records & Briefs

3-29-2021

State v. Miramontes Respondent's Brief Dckt. 47628

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

Recommended Citation
"State v. Miramontes Respondent's Brief Dckt. 47628" (2021). *Not Reported*. 6820.
https://digitalcommons.law.uidaho.edu/not_reported/6820

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

Electronically Filed
3/29/2021 4:22 PM
Idaho Supreme Court
Melanie Gagnepain, Clerk of the Court
By: Brad Thies, Deputy Clerk

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	
	)	**No. 47628-2019**
Plaintiff-Respondent,	)	
	)	**Bannock County Case No.**
v.	)	**CR-2018-4106**
	)	
NATALIE JEAN MIRAMONTES,	)	
	)	
Defendant-Appellant.	)	
	)	

BRIEF OF RESPONDENT

APPEAL FROM THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

HONORABLE STEPHEN S. DUNN
District Judge

LAWRENCE G. WASDEN
Attorney General
State of Idaho

COLLEEN D. ZAHN
Deputy Attorney General
Chief, Criminal Law Division

JUSTIN R. PORTER
Deputy Attorney General
Criminal Law Division
P. O. Box 83720
Boise, Idaho 83720-0010
(208) 334-4534
E-mail: ecf@ag.idaho.gov

ATTORNEYS FOR
PLAINTIFF-RESPONDENT

SALLY J. COOLEY
Deputy State Appellate Public Defender
322 E. Front St., Ste. 570
Boise, Idaho 83702
(208) 334-2712
E-mail: documents@sapd.state.id.us

ATTORNEY FOR
DEFENDANT-APPELLANT

TABLE OF CONTENTS

PAGE

TABLE OF AUTHORITIES

CASES **PAGE**

CONSTITUTIONAL PROVISIONS

STATEMENT OF THE CASE

Nature Of The Case

Natalie Jean Miramontes appeals from the judgment of conviction entered upon her conditional guilty plea to possession of methamphetamine. Miramontes asserts the district court erred when it denied her motion to suppress. (Appellant's brief, p.7.)

Statement Of The Facts And Course Of The Proceedings

Probation Officers Raynee Myler and Matt LaVallee conducted a probationary check on the home of Christine Evans, a participant in mental health court. (R., pp.133-34.) Upon arriving at Evans's home, Officer Myler knocked on the door and saw Evans through a window. (11/27/18 Tr., p.6, Ls.10-14.) Evans saw the officers and put her finger up indicating that she needed a minute. (11/27/18 Tr., p.8, Ls.12-20.) She then walked to the back of the house before returning to let the officers in. (11/27/18 Tr., p.8, Ls.20-23.)

Officer Myler suspected other persons were present in the home. (R., p.134.) Upon entering, Officer Myler immediately walked to the back of the house to verify her suspicion. (R., p.134; 11/27/18 Tr., p.8, L.24 – p.9, L.1.) As she did so, she observed a woman exiting into the backyard through a back door, hunched over carrying a bag. (R., p.134; 11/27/18 Tr., p.9, Ls.6-24.) Officer Myler followed the woman and ordered her to stop three times. (R., p.134; 11/27/18 Tr., p.9, L.25 – p.10, L.11.) The woman stopped after Officer Myler's third command and dropped the bag she was carrying. (R., p.134; 11/27/18 Tr., p.10, Ls.19-25.) Officer Myler asked the woman to come back inside the house and to identify herself. (R., p.134; 11/27/18 Tr., p.10, Ls.24-25.) The woman came back inside and identified herself as Natalie Miramontes. (11/27/18 Tr., p.11, L.24 – p.12, L.8; p.13, Ls.3-4.) Miramontes told Officer Myler that she had been living in a

spare bedroom in Evans's home for about a week. (R., p.134; 11/27/18 Tr., p.12, Ls.2-8; p.14, L.25 – p.15, L.9.)

Officer Myler then asked Miramontes for her identification. (R., p.134; 11/27/18 Tr., p.12, Ls.9-16.) Miramontes told Officer Myler that her ID was in her purse. (11/27/18 Tr., p.13, L.18 – p.14, L.1.) She tried to walk past Officer Myler toward the bag she had dropped, but Officer Myler prevented her from doing so for officer safety reasons. (11/27/18 Tr., p.13, L.18 – p.14, L.1; p.37, Ls.3-24.) Instead, Officer Myler had Officer LaVallee collect the bag and its contents from the backyard and bring it inside. (R., p.134; 11/27/18 Tr., p.41, Ls.4-21; p.59, L.2 – p.62, L.11; State's Exs. 2-4.) Miramontes told the officers that her ID was in the pink floral pattern bag. (R., p.134; 11/27/18 Tr., p.14, Ls.2-5; p.42, L.18 – p.43, L.1; p.59, Ls.16-22.) Officer LaVallee opened a pink floral print bag and saw needles, plastic packaging, and a fake battery that contained methamphetamine. (R., p.134; 11/27/18 Tr., p.62, Ls.12-18; p.85, L.6 – p.86, L.6; 5/9/18 Tr., p.30, Ls.4-8; State's Ex. 4.) The officers froze the scene, detained Miramontes, and called for local police to respond. (R., p.134; 11/27/18 Tr., p.15, L.10 – p.17, L.12; p.64, L.22 – p.65, L.9.)

Officer Leach, a local police officer, responded a few minutes later. (R., p.135; 11/27/18 Tr., p.16, Ls.18-24; p.80, L.22 – p.81, L.18.) Officers Leach and Myler searched the back bedroom that Miramontes had been staying in. (11/27/18 Tr., p.83, Ls.2-12.) They discovered methamphetamine as well as various items of drug paraphernalia such as plastic baggies, bindles, pipes, a glass bong, syringes, and a torch. (R., p.135; 11/27/18 Tr., p.83, L.13 – p.84, L.1.) Officer Leach also searched the bags Miramontes had dropped in the backyard and found a glass bong, a syringe that contained a dark substance, and Miramontes's ID. (R., p.135; 11/27/18 Tr., p.84, L.8 – p.88, L.11; State's Ex. 5-6.) Officer Leach read Miramontes her Miranda[1] rights and asked

[1] Miranda v. Arizona, 384 U.S. 436 (1966).

which items belonged to her. (R., p.135; 11/27/18 Tr., p.88, L.12 – p.90, L.10.) Miramontes claimed ownership of the bag that contained the glass bong, and the bag that contained the syringe and her ID; she again admitted that she had been staying in Evans's home for about five days. (11/27/18 Tr., p.89, L.16 – p.91, L.13.)

The state charged Miramontes with possession of methamphetamine with intent to deliver. (R., pp.41-42.[2]) Miramontes filed a motion to suppress arguing that her constitutional right "against unreasonable *seizure* was violated." (R., pp.63-65 (emphasis added).) The district court held an evidentiary hearing on the suppression motion before the parties submitted any briefing. (R., pp.66-69; see generally 11/27/18 Tr., pp.4-97.) The parties submitted their respective briefs in the weeks after the evidentiary hearing. (R., pp.73-98.)

At the court's request, a second hearing on the motion to suppress was held. (2/25/19 Tr., p.6, Ls.4-6; see R., p.99.) Due to the temporal difference between the evidence initially discovered in Miramontes's purse and the evidence subsequently discovered in the bedroom, the court sought clarification from Miramontes regarding what evidence she was seeking to have suppressed. (R., pp.135-36; 2/25/19 Tr., p.7, Ls.8-19.) Following the hearing, Miramontes filed a supplemental brief arguing that both the evidence found in her purse and the evidence found in the bedroom should be suppressed because neither the attenuation doctrine, nor the inevitable discovery doctrine, nor the independent source doctrine applied. (R., pp.102-16.) The state also filed a supplemental brief. (R., pp.117-32.) The state argued the evidence discovered was not subject to suppression because the exceptions to the exclusionary rule applied. (R., pp.118-31.) Ultimately, the district court denied the motion to suppress. (R., pp.133-44.)

[2] Miramontes was charged with possessing both the methamphetamine discovered in her purse and the methamphetamine found in the bedroom. (2/25/19 Tr., p.7, Ls.20-23; p.11, Ls.18-25.)

Following mediation and pursuant to a plea agreement, Miramontes entered a conditional guilty plea to the amended charge of possession of methamphetamine. (R., pp.147-48, 158-69; 11/22/19 Tr., p.20, L.20 – p.22, L.24; p.25, Ls.2-4.) She reserved the right to appeal the order denying the motion to suppress. (R., p.162; 11/22/19 Tr., p.29, Ls.12-22.)

The district court imposed a unified sentence of three years, with two years fixed. (R., pp.182-85; 11/25/19 Tr., p.42, L.22 – p.43, L.4.) The court suspended execution of the sentence and placed Miramontes on probation for three years. (Id.)

Miramontes timely appealed. (R., pp.182, 186-88.)

ISSUE

Miramontes states the issue on appeal as:

Did the district court err when it denied Ms. Miramontes's motion to suppress?

(Appellant's brief, p.6.)

The state rephrases the issue as:

Has Miramontes failed to show that the district court erred when it denied the motion to suppress?

ARGUMENT

Miramontes Has Failed To Show That The District Court Erred When It Denied The Motion To Suppress

A. Introduction

The district court held that Miramontes's seizure did not violate the Fourth Amendment and thus denied Miramontes's motion to suppress. (R., pp.133-44.[3]) On appeal, Miramontes asserts the district court erred by denying her motion to suppress because the search of her purse was unlawful. (Appellant's brief, pp.7-11.) Her argument is unpreserved. She also asserts that all evidence must be suppressed as the fruits of that unlawful search. (Appellant's brief, pp.13-16.) She is incorrect.

The district court properly denied the motion to suppress on the basis that Miramontes was not unlawfully seized. Miramontes's argument that the search of her purse was unlawful is not preserved for appeal because she did not support such an assertion with any cogent argument or authority below. Even if she did present some iteration of the argument she presents on appeal to the district court, the argument is nevertheless unpreserved because she not obtain an adverse ruling from the district court regarding the legality of the search. Even if Miramontes's detention or the search of her purse was unlawful, the evidence found in the bedroom she was staying in is not subject to suppression as it would have been inevitably discovered by lawful means.

[3] Although Miramontes contended that both constitutions were violated in her motion to suppress, she has provided no argument why Article I, Section 17 of the Idaho Constitution should be applied differently than the Fourth Amendment to the United States Constitution. (R., pp.63-65, 73-82, 101-16; Appellant's brief, pp.7-13.) Therefore, the Court should solely rely on judicial interpretation of the Fourth Amendment in its analysis of Miramontes's claims. See State v. Reynolds, 143 Idaho 911, 914, 155 P.3d 712, 715 (Ct. App. 2007).

B. Standard Of Review

"The standard of review of a suppression motion is bifurcated. When a decision on a motion to suppress is challenged, the Court accepts the trial court's findings of fact that are supported by substantial evidence, but freely reviews the application of constitutional principles to the facts as found." State v. Moore, 164 Idaho 379, 381, 430 P.3d 1278, 1280 (2018) (quoting State v. Page, 140 Idaho 841, 103 P.3d 454, 456 (2004)).

C. The District Court Correctly Held That Miramontes Was Lawfully Seized

"The Fourth Amendment to the United States Constitution protects '[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.'" State v. Bishop, 146 Idaho 804, 810, 203 P.3d 1203, 1209 (2009) (quoting U.S. Const. amend. IV). "Like the Fourth Amendment, the purpose of Art. I, § 17 [of the Idaho Constitution] is to protect Idaho citizens' reasonable expectation of privacy against arbitrary governmental intrusion." State v. Albertson, 165 Idaho 126, 129, 443 P.3d 140, 143 (2019) (quoting State v. Christensen, 131 Idaho 143, 146, 953 P.2d 583, 586 (1998)). Warrantless searches and seizures are presumptively unreasonable under the Fourth Amendment. State v. Wulff, 157 Idaho 416, 419, 337 P.3d 575, 578 (2014) (citations omitted).

Generally, "an official seizure of the person must be supported by probable cause, even if no formal arrest is made" in order to be reasonable under the Fourth Amendment. Michigan v. Summers, 452 U.S. 692, 696 (1981) (citing Dunaway v. New York, 442 U.S. 200, 204 (1979)). However, "some seizures significantly less intrusive than an arrest have withstood scrutiny under the reasonableness standard embodied in the Fourth Amendment." Id. at 697 (citations omitted). "In these cases the intrusion on the citizen's privacy 'was so much less severe' than that involved in a traditional arrest that 'the opposing interest in crime prevention and detection and in police

officer safety' could support the seizure as reasonable." Id. at 697-98 (quoting Dunaway, 442 U.S. at 209).

Applying the foregoing principles, the U.S. Supreme Court held that a valid search warrant "implicitly carries with it the limited authority [for law enforcement officers] to detain the occupants of the premises [to be searched] while a proper search is conducted." Summers, 452 U.S. at 705. In reaching its decision, the Court examined the character of the intrusion and its justifications. Id. at 701-03. The Court concluded that when police officers are searching a house pursuant to a valid search warrant, the detention of an occupant is minimally intrusive. Id. at 701-02. The Court also recognized three legitimate justifications for such an intrusion: (1) the need to prevent flight in the event incriminating evidence is found; (2) the interest in minimizing the risk of harm to the officers; and (3) the orderly completion of the search. Id. at 702-03. Because the intrusion on the citizen's privacy is so much less severe than that involved in a traditional arrest, such seizures are reasonable given the law enforcement interests. Summers, 452 U.S. at 704-05.

The Idaho Supreme Court recently extended the Summers rule to permit the limited detention of the occupants of a home during a parole or probation search. State v. Phipps, 166 Idaho 1, 454 P.3d 1084 (2019). The Court determined that the intrusion caused by such detentions is slight and that the governmental interests outlined in Summers apply with the same force to parole and probation searches. Id. at ___-__, 454 P.3d at 1090-91. Accordingly, the Court held that "officers have categorical authority to detain all occupants of a residence incident to a lawful parole or probation search and to question them as long as the detention is not prolonged by the questioning." Id. at ___, 454 P.3d 1091.

Here, the district court correctly determined that Miramontes's detention did not violate the Fourth Amendment. It is undisputed that the probation officers had authority to enter and

search Evans's residence. (Appellant's brief, p.9; see also R., p.78.) Evans consented to warrantless searches of her person, property, and residence as a condition of her participation in mental health court. (State's Ex. 1.) Additionally, Miramontes was inside Evans's home when the officers arrived (R., pp.133-34; 11/27/18 Tr., p.9, Ls.6-24), and she later admitted that she had been living in a spare bedroom inside Evans's home for several days before they arrived (R., p.134; 11/27/18 Tr., p.12, Ls.2-8; p.14, L.25 – p.15, L.9). Although Miramontes immediately fled out of a back door, she obeyed Officer Myler's order to stop and come back inside the home where she was detained. (R., p.134; 11/27/19 Tr., p.10, Ls.24-25; p.17, Ls.4-12.) Because officers have categorical authority to detain any occupants of a residence incident to a lawful probation search, the probation officers did not violate Miramontes's Fourth Amendment rights when they detained her while conducting the search of Evans's home. Therefore, the district court did not err when it denied the motion to suppress on the grounds that Miramontes's detention did not violate the Fourth Amendment.

On appeal, Miramontes claims that she "does not challenge her warrantless, suspicionless detention." (Appellant's brief, p.3 n.2.) She concedes that "Idaho case law has … affirmed the constitutionality of [her] detention due to her presence at the home of … a probationer during a routine probation search of the home." (Appellant's brief, pp.9-10 (citing Phipps, 166 Idaho 1, 454 P.3d 1084).) Nevertheless, she devotes several pages of her opening brief to the argument that a seizure must be based on the reasonable suspicion that a particular individual is involved in criminal activity and that flight alone is not a basis for reasonable suspicion. (Appellant's brief, pp.7-9.) To the extent she argues that the district court incorrectly held that her seizure was lawful, proper application of Phipps shows that her argument is misplaced. The reasonableness standard embodied in the Fourth Amendment is not violated when a third-party occupant of a residence is

detained while officers conduct a probation search of the residence, regardless of whether the officers have reasonable suspicion that the third party is involved in criminal activity. Phipps, 166 Idaho at ___-__, 454 P.3d at 1090-91. Miramontes has not argued that Phipps was wrongly decided or shown that her detention was unlawful. Accordingly, she has failed to show that the district court erred when it denied her motion to suppress on the grounds that her detention was lawful.

D. Miramontes's Claim That Her Purse Was Unlawfully Searched Is Not Preserved

Miramontes asserts the district court erred when it denied her motion to suppress because the search of her purse was illegal. (Appellant's brief, pp.7-13.) Her argument is unpreserved.

Issues not raised below generally may not be considered for the first time on appeal. State v. Fodge, 121 Idaho 192, 195, 824 P.2d 123, 126 (1992). "Appellate court review is limited to the evidence, theories, and *arguments* that were presented below." State v. Armstrong, 158 Idaho 364, 367, 347 P.3d 1025, 1028 (Ct. App. 2015) (emphasis added) (citing State v. Johnson, 148 Idaho 664, 670, 227 P.3d 918, 924 (2010)). A party may not claim the district court's decision was in error based on an argument that was not presented to the district court for its consideration. State v. Demint, 161 Idaho 231, 233, 384 P.3d 995, 997 (Ct. App. 2016) (citing Armstrong, 158 Idaho at 368, 347 P.3d at 1029); see also State v. Gonzalez, 165 Idaho 95, 99, 439 P.3d 1267, 1271 (2019) ("We will not hold that a trial court erred in making a decision on an issue or a party's position on an issue that it did not have the opportunity to address.") "Even when a defendant mentions the general basis for a motion to suppress, his or her arguments on appeal are limited by what was argued to the trial court." Demint, 161 Idaho at 233, 384 P.3d at 997 (citing State v. Anderson, 154 Idaho 703, 705-06, 302 P.3d 328, 330-31 (2012)).

Miramontes failed to present to the district court any cogent argument, backed by authority and citations to evidence in the record, regarding the allegedly unlawful search of her purse. In her motion to suppress, Miramontes asserted that the evidence should be suppressed on the sole basis of "an illegal *seizure*." (R., p.63 (emphasis added).) She did not assert on the face of the motion that her constitutional rights were violated by an unlawful search. (R., pp.63-65.)

In her first brief in support of the motion to suppress, Miramontes made the bare assertion for the first time that the search of her purse violated the Fourth Amendment. (R., p.75.) However, she did not support this bare assertion with any authority, argument, or citation to the evidence in the record. (R., pp.75-81.) She argued generally that her Fourth Amendment rights were violated under the balancing test set forth in State v. Williams, 162 Idaho 56, 394 P.2d 99 (Ct. App. 2016). (R., pp.75-81.) It appears she urged the district court to determine whether the "search of her property was constitutionally permissible" using the Williams factors. (R., p.75.) However, Williams is inapplicable to the determination of whether a search violates the Fourth Amendment. See Williams, 162 Idaho at 60-64, 394 P.2d at 103-07 (holding that the *detention* of a third party during the execution of an arrest warrant does not necessarily violate the Fourth Amendment). Even Miramontes acknowledges on appeal that Williams is not relevant to a determination of whether the purse was illegally searched. (Appellant's brief, p.12.) Thus, in her first brief Miramontes failed to support the bare assertion that her purse was unlawfully searched with any relevant authority or argument.

If Miramontes's intended to raise the argument she now asserts on appeal in her first brief, it flew past both the district court and the state. During the second hearing on the motion to suppress, which was held at the court's request, defense counsel asserted that the officers "illegally searched the purse." (2/25/19 Tr., p.8, L.10 – p.10, L.1.) The court immediately responded, "And

see, this issue was not addressed in either one of your briefs." (2/25/19 Tr., p.10, Ls.2-8.) Later, Miramontes suggested for the first time that the officers needed consent to search her purse, which caused the court to further express its confusion and request supplemental briefing from the parties. (2/25/19 Tr., p.12, L.4 – p.15, L.20; p.19, Ls.6-7.)

Given the opportunity to provide additional briefing, Miramontes again made the bare assertion that "the evidence obtained from Officer LaVallee's search of the pink/salmon bag was the product of an illegal search." (R., p.102.) Yet, again she failed to provide any cogent argument or relevant authority in support of this assertion. (R., pp.102-16.) Instead, she argued that the evidence discovered in her purse and the evidence found in the bedroom should be suppressed because neither the attenuation doctrine, nor the inevitable discovery doctrine, nor the independent source doctrine applied. (Id.) Because she failed to support the bare assertion that the search of her pink purse was unlawful with any argument or authority below, such arguments are not preserved for appeal.

Moreover, even if some iteration of the argument Miramontes's raises on appeal was made below, she never secured an adverse ruling on the issue. "Even if an issue was argued to a lower court, to preserve an issue for appeal there must be a ruling by the [lower] court." Johnson v. Crossett, 163 Idaho 200, 207, 408 P.3d 1272, 1279 (2018) (citation and internal quotation marks omitted). This Court "will not review a trial court's alleged error on appeal unless the record discloses an adverse ruling which forms the basis for the assignment of error." State v. Fisher, 123 Idaho 481, 485, 849 P.2d 942, 946 (1993). Here, the district court unambiguously ruled solely on the legality of Miramontes's seizure. (R., pp.136-43.) The district court ruled that "the *detention* of the Defendant to confirm her identity was … constitutionally permissible." (R., p.143 (emphasis added).) The court did not address or rule on the legality of the search of Miramontes's

purse. (R., pp.136-43.) Therefore, the record does not contain an adverse ruling which forms the basis for the assignment of error.

In sum, Miramontes's failed to support the bare assertion that her purse was illegally searched with any cogent argument or relevant authority, and the court did not address, much less rule on, the legality of the search of her purse. Because appellate review is limited to the arguments that Miramontes presented below, and because she failed to obtain an adverse ruling on the issue of the alleged illegal search, the argument that the district court erred because the search of her purse was illegal is not preserved for appeal.

E. Regardless Of The Legality Of Either The Search Or The Seizure, The Evidence Found In The Bedroom Is Not Subject To Suppression

Even assuming that Miramontes was unlawfully seized and/or her purse unlawfully searched, the evidence found in the bedroom she was staying is not subject to suppression. Generally, evidence obtained in violation of the Fourth Amendment is subject to the exclusionary rule. State v. Cohagan, 162 Idaho 717, 720, 404 P.3d 659, 662 (2017) (citing Wong Sun v. United States, 371 U.S. 471, 485 (1963); Page, 140 Idaho at 846, 103 P.3d at 459). The exclusionary rule is a judicial remedy for addressing illegal searches and seizures. State v. Bunting, 142 Idaho 908, 915, 136 P.3d 379, 386 (Ct. App. 2006). The rule requires the suppression of "primary evidence obtained as a direct result of an illegal search or seizure" as well as "evidence later discovered and found to be derivative of an illegality or 'fruit of the poisonous tree.'" Segura v. United States, 468 U.S. 796, 804 (1984) (citation omitted). "However, there are various exceptions to the exclusionary rule." Cohagan, 162 Idaho at 720-21, 404 P.3d at 662-63 (citations omitted).

One such exception is the inevitable discovery doctrine. "[T]he inevitable discovery doctrine asks courts to engage in a hypothetical finding into the lawful actions law enforcement

would have inevitably taken in the absence of the unlawful avenue that led to the evidence." State v. Downing, 163 Idaho 26, 31, 407 P.3d 1285, 1290 (2017) (emphasis in original) (citation omitted). "The [inevitable discovery] doctrine 'is not intended to swallow the exclusionary rule whole by substituting what the police should have done for what they really did.'" Id. at 32, 407 P.3d at 1291 (quoting State v. Holman, 109 Idaho 382, 392, 707 P.2d 493, 503 (Ct. App. 1985)). Rather, "[t]he inevitable-discovery doctrine presupposes parallel paths leading toward the inevitable discovery of evidence." State v. Maxim, 165 Idaho 901, 909, 454 P.3d 543, 551 (2019). "If, because of illegal police action, one path arrives at the evidence before the other does, then the State will be permitted to prove that the existing alternative path would have yielded the evidence even if the existing alternative path was cut short due to the discovery of the evidence." Id. "However, the split in the investigation which creates these parallel paths must occur prior to or independent of the illegality, not because of it." Id. "The question is not what legal path the police would have inevitably taken which could have yielded the evidence. The question is what legal path the police actually took which would have inevitably yielded the evidence." Id.

The inevitable discovery doctrine balances society's interests in deterring illegal police conduct and having juries receive all probative evidence of a crime by putting the government in the same, not a worse, position than it would have occupied absent the police error or misconduct. Nix v. Williams, 467 U.S. 431, 443 (1984). When evidence would have been inevitably discovered as a result of other lawful means, the exclusion of such evidence would put the police in a worse position than they would have been absent any error or misconduct, and thus the exclusionary rule does not apply. Id. at 443-44. Hence, "the inevitable discovery doctrine allows for the admission of evidence that would have been discovered even without the unconstitutional source." Utah v.

Streiff, ___ U.S. ___, ___, 136 S. Ct. 2056, 2061 (2016) (citation omitted); see also Stuart v. State, 136 Idaho 490, 497-99, 36 P.3d 1278, 1285-87 (2001) (adopting the inevitable discovery doctrine).

In this case, the record establishes that the evidence discovered in the room Miramontes was staying in would have been inevitably discovered by the probation officers during the residence check regardless of Miramontes's seizure or the search of her purse. The district court found that the officers went to Evans's home to conduct a probationary check, which authorized the officers to verify Evans's living arrangements, check for contraband, and confirm her compliance with the terms and conditions of mental health court. (R., p.134; State's Ex. 1.) Officer Myler testified that it was standard policy for them to conduct such home checks every thirty days when someone like Evans is on "phase one in a specialty court." (11/27/18 Tr., p.34, Ls.15-20.)

Officer Myler also testified that the purpose of the residence checks is to ensure that the probationer is complying with the terms and conditions of their probation. (11/27/18 Tr., p.34, L.21 – p.35, L.4.) The terms and conditions of Miramontes's mental health agreement prohibited her from having unapproved associations and from having guests in her home past 10 p.m. without prior approval. (State's Ex. 1.) Notwithstanding her assent to these terms, the officers observed that Evans was violating them immediately upon entering her home. Officer Myler observed Miramontes in the home despite the fact that Evans was not authorized to associate with her. (11/27/18 Tr., p.9, Ls.6-24; p.37, Ls.18-24.) Additionally, before Officer LaVallee searched Miramontes's purse, Miramontes confessed to Officer Myler that she had been living at Evans's house for about a week. (11/27/18 Tr., p.12, Ls.2-8.) Thus, the officers knew Evans was not in compliance with at least two terms of her agreement before Miramontes was seized and well before Officer LaVallee opened Miramontes's purse.

Another condition of Evans's agreement prohibited her from possessing controlled substances. (State's Ex. 1.) The observed violations surely elevated the officers' pre-existing concerns that someone on supervision, like Evans, may be possessing or using drugs. (See 11/27/18 Tr., p.34, L.5 – p.35, L.4.) Beyond that, Officer Myler testified that she wears gloves during residence checks once they "start searching," suggesting that searches for contraband are characteristic of probationary checks and that the officers were going to search for contraband during the residence check of Evans's home. (11/27/18 Tr., p.31, L.25 – p.32, L.5.) Accordingly, the officers would have searched Evans's home for contraband as part of the routine residence check they were conducting regardless of their detention of Miramontes or the search of her purse. Suppressing the evidence found in the room Miramontes was staying in would put the state in a worse, not the same, position than it would have been absent Miramontes's detention or the search of her purse. Because the evidence found in the bedroom would have been inevitably discovered, it is not subject to suppression.

CONCLUSION

The state respectfully requests this Court affirm the judgement of conviction and the order of the district court denying Miramontes's motion to suppress.

DATED this 29th day of March, 2021.

/s/ Justin R. Porter
JUSTIN R. PORTER
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 29th day of March, 2021, served a true and correct copy of the foregoing BRIEF OF RESPONDENT to the attorney listed below by means of iCourt File and Serve:

SALLY J. COOLEY
DEPUTY STATE APPELLATE PUBLIC DEFENDER
documents@sapd.state.id.us

/s/ Justin R. Porter
JUSTIN R. PORTER
Deputy Attorney General

JRP/dd