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IN THE SUPREME COURT OF THE STATE OF IDAHO

MARCOS A. RENTERIA,

Petitioner/Appellant,

vs.

STATE OF IDAHO,

Respondent.

)
) Docket Nos. 45022-2017
) Canyon County No. CR-2016-9811-C
)
) Docket No. 45023-2017
) Canyon County No. CR-2016-14448-C
)
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APPELLANT'S REPLY BRIEF

Appeal from the District Court of the Third Judicial District of the State of Idaho,
in and for the County of Canyon

Honorable Judge Southworth
District Judge, presiding

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I. STANDARD OF REVIEW

“The Court reviews the denial of a motion to suppress using a bifurcated standard.” *State v. Linze*, 161 Idaho 607, 607, 389 P.3d 150, 152 (2016) (citing *State v. Purdum*, 147 Idaho 206, 207, 207 P.3d 182, 183 (2009)). This Court will “accept the trial court’s finding of fact unless they are clearly erroneous.” *Id.* However, the Court “may freely review the trial court’s application of constitutional principles in light of the facts found.” *Id.*

II. ARGUMENT

A. Sproat Impermissibly Extended the Traffic Stop in Violation of Mr. Renteria’s Fourth Amendment Rights.

This Court should reverse the district court’s denial of Mr. Renteria’s motion to suppress, pursuant to *Rodriguez v. United States* and *State v. Linze*, based on the three *de minimis* deviations that unlawfully prolonged the traffic stop and violated his Fourth Amendment rights. The Fourth Amendment to the United States Constitution guarantees “the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated.” U.S. Const. amend. IV. A traffic stop conducted by law enforcement constitutes a seizure of the vehicle’s occupants, and thus, the Fourth Amendment applies. *Linze*, 161 Idaho at 608, 389 P.3d at 153 (citing *Delaware v. Prouse*, 440 U.S. 648, 653, 99 S.Ct. 1391 (1979)). The seizure is valid under Fourth Amendment principles so long as the officer initiated the stop based on reasonable suspicion that a traffic violation had occurred. *Linze*, 161 Idaho at 608, 389 P.3d at 153 (citing *Rodriguez v. United States*, 135 S.Ct. 1609, 1614 (2015)).

“The suspicion for the stop must be based upon objective information available to the officer when he decided to make the stop, and cannot be bolstered by evidence gathered following the stop.” *State v. Neal*, 159 Idaho 439, 443, 362 P.3d 514, 518 (2015) (quoting *State v. Emory*, 119 Idaho 661, 664, 809 P.2d 522, 525 (Ct. App. 1991)). Further, the seizure cannot last longer

than necessary to address the infraction (the purpose of the stop). *Rodriguez*, 135 S.Ct. at 1614. The seizure becomes unreasonable (i.e., unconstitutional) when the seizing officer deviates from the tasks related to the traffic infraction at any time before or after completion of those tasks. *Linze*, 161 Idaho at 609, 389 P.3d at 154. The deviation itself constitutes a new seizure with a new purpose and thus requires new reasonable suspicion to justify the new seizure. *See id.* (“[t]new seizure cannot piggy-back on the reasonableness of the original seizure.”).

The U.S. Supreme Court in *Rodriguez* held that absent reasonable suspicion, a dog sniff that adds time to the stop unlawfully prolongs its initial purpose and violates the Fourth Amendment. *Id.* at 1616. In *Linze*, the Idaho Supreme Court stated that the rule articulated in *Rodriguez* is “both broad and inflexible.” *Linze*, 161 Idaho at 608, 389 P.3d at 153. “It applies to all extensions of traffic stops including those that could reasonably be considered *de minimis*.” *Id.* When the deviation occurs is irrelevant, the only important fact is that the officer deviated from the original purpose. *Id.*

1. *Sproat immediately abandoned the initial purpose of the traffic stop and began investigating Mr. Renteria for drugs.*

This Court should reverse the district court’s denial of Mr. Renteria because Sproat’s questioning about drugs and weapons, unrelated to the purpose of the stop, unlawfully prolonged the initial purpose of the stop and violated his rights under the Fourth Amendment. Although questions about drugs and weapons are a routine part of a traffic stop, additional questioning without new reasonable suspicion must be considered a *de minimis* deviation. *See Linze*, 161 Idaho at 608, 389 P.3d at 153. Thus, absent circumstances justifying additional questioning about drugs and weapons, the tasks related to initiating the canine search would inevitably lengthen the time needed to complete the original purpose of the initial seizure. *See Rodriguez*, 135 S.Ct. at 1613.

Here, Sproat's initial questioning of Mr. Renteria, without articulable and reasonable suspicion that criminal activity was afoot, and which ultimately induced the canine search, constitutes the first *de minimis* deviation. The district court, however, declined to rule on whether reasonable suspicion existed for the deviations as the court reasoned the issue was moot since, in its opinion, there were no extensions and thus, no reasonable suspicion needed. To support the district court's decision, Respondent correctly points out that an officer may ask questions about drugs and weapons, regardless of whether that was the purpose of the initial stop. However, this questioning is not without limits. Sproat continued questioning Mr. Renteria about drugs and weapons even after he denied the presence of either.

Like in *Linze*; any additional questioning that Sproat subjected Mr. Renteria to constituted the initiation of a new purpose, which required new reasonable suspicion. Further, and similar to *Linze*, "multi-tasking" by asking such questions (while Mr. Renteria *tried to find his proof of insurance*) should not earn Sproat bonus time to ask unrelated questions just because the questioning may or may not have delayed the traffic investigation. (Resp't Br., pg. 9 (emphasis in original)). Conversely, Respondent, citing to *State v. Sheldon*, 139 Idaho 980, 984, 88 P.3d 1220, 1224 (Ct. App. 2003) and *State v. Myers*, 118 Idaho 608, 613, 798 P.2d 453, 458 (Ct. App. 1990), argues that Sproat did not abandon the traffic investigation because his initial contact with Mr. Renteria materialized suspicious circumstances that justified asking questions unrelated to Mr. Renteria's violation of I.C. § 49-808.

In other words, during the short period of time (approximately one minute) after Sproat asked for Mr. Renteria's identification, registration, and destination, his suspicion of criminality had evolved beyond the initial purpose of the stop. However, the totality of the circumstances known to Sproat at that moment proves no legitimate reasons existed to question Mr. Renteria

about drugs and weapons or that would warrant further investigation. Sproat did not have any safety concerns (Mosley was standing near him watching the encounter, and Mr. Renteria was cooperative). *Cf. Rodriguez*, 135 S.Ct. at 1614 (attending to safety concerns relates to the reasonable duration of police inquiries in the traffic-stop context). Further, he did not see any drugs in plain view or smell an odor of drugs. *Cf. State v. Schmadeka*, 136 Idaho 595, 600, 38 P.3d 633, 638 (2001) (the officer noticed an odor of burnt marijuana coming through the open window as the driver searched for his registration and insurance during the traffic stop).

Sproat later testified that he suspected Mr. Renteria of drug activity for four reasons. First, Mr. Renteria had made a quick lane change without signaling for the required five (5) seconds. *Cf. Neal*, 159 Idaho at 443, 362 P.3d at 518 (moving onto the fog line on two instances does not mean the driver is drunk). Second, Mr. Renteria had shaky hands. *Cf. State v. Neal*, 159 Idaho 919, 924, 367 P.3d 1231, 1236 (Ct. App. 2016) (stating that a nervous demeanor is of limited significance in establishing reasonable suspicion because people commonly exhibit signs of nervousness when confronted with police regardless of criminal activity). Third, the front passenger was wearing glasses while looking straight ahead. Fourth, Mr. Renteria driving from Arizona and to Washington. Lastly, Mr. Renteria had the picture of the patron saint Jesus Malverde in his wallet. None of these reasons, whether standing alone or together, create reasonable suspicion to justify calling a K-9 unit.

None of these reasons, whether standing alone or together, create reasonable suspicion to justify calling a K-9 unit. In conclusion, the Court should reverse the district court's denial of Mr. Renteria's motion to suppress because Sproat required new reasonable suspicion to continue questioning Mr. Renteria about drugs and weapons after he denied the presence of either. Thus, the district court declining to rule on whether reasonable suspicion existed renders this additional

questioning a deviation from the original purpose and unlawful extension of the stop, in violation of Mr. Renteria's rights under the Fourth Amendment.

2. *Upon abandoning the original purpose of the stop, Sproat requested a drug-detection dog before calling in Mr. Renteria's information.*

This Court should reverse the district court's denial of Mr. Renteria's motion to suppress based on the fact that Sproat requested a canine before calling dispatch to run Mr. Renteria's information, a *de minimis* deviation that unlawfully prolonged the traffic stop and violated his Fourth Amendment rights. In *Linze*, the pertinent question concerned whether or not the seizure remained reasonable under the Fourth Amendment once the officer abandoned the purpose of the seizure in order to aid in a search for contraband. *Linze*, 161 Idaho at 608, 389 P.3d at 153. Although an officer may conduct certain unrelated checks during an otherwise lawful traffic stop, a canine search is not part of a "routine" traffic stop. *Rodriguez*, 135 S.Ct. at 1615.

Here, the second *de minimis* deviation occurred when Sproat called the canine unit before calling dispatch to run Mr. Renteria's license and information. Further, Sproat never addressed the infraction with Mr. Renteria again after initially asking for his driver's license, registration, and destination. This also shows that Sproat abandoned the initial purpose of the stop. In contrast, Respondent argues that Sproat did not abandon his traffic investigation because he contacted dispatch with the birthdates and names of Mr. Renteria and his passenger, to run a records check, as soon as he returned to his patrol vehicle. (Resp't Br., pg. 8). According to the Respondent, this proves that Sproat remained diligent in pursuing the reasons for initiating the traffic stop. Sproat's actions after requesting the canine unit, however, do not "cure" the *de minimis* deviation.

Like in *Rodriguez*, the only concern is that Sproat deviated from the original purpose of the stop at all. Additionally, Respondent asserts that *by requesting a drug-detection dog while walking back to the patrol car*, Sproat did not prolong his traffic investigation. (Resp't Br., pg. 9

(emphasis in original)). However, similar to *Linze*, “multi-tasking” should not earn Sproat bonus time to pursue an unrelated criminal investigation. *Id.* Regardless of the timing aspect of the deviation, Sproat called in the canine unit before calling in Mr. Renteria’s information. Because the *de minimis* deviation occurred, Sproat was required to have new reasonable suspicion to pursue the new purpose of furthering the drug investigation. In conclusion, Sproat calling in the canine before calling dispatch to run Mr. Renteria’s information constitutes an abandonment of the initial purpose of the stop and a *de minimis* deviation which, because it occurred, violates his fourth amendment rights.

3. *Sproat’s “brief” discussion with the canine officer, while waiting for dispatch to respond, does not remedy the underlying deviation.*

This Court should reverse the district court’s denial of Mr. Renteria’s motion to suppress because Sproat’s discussion with the canine officer, no matter the timing aspect, proves that he aided and advanced the unrelated drug investigation, which constitutes a *de minimis* deviation and violates Mr. Renteria’s rights under the Fourth Amendment. A *de minimis* deviation, no matter the timing aspect, does not change the fact that it occurred to begin with. *Rodriguez*, 135 S.Ct. at 1609. A canine search itself, aimed at detecting evidence of criminal wrongdoing, is considered a deviation and requires new reasonable suspicion. *Linze*, 161 Idaho at 609, 389 P.3d at 154. Thus, conducting a drug sniff that adds time to the stop, no matter how brief, is an unreasonable under the Fourth Amendment. *Rodriguez*, 135 S.Ct. at 1609; *see also Linze*, 161 Idaho at 608, 389 P.3d at 153 (holding that the seizure becomes unreasonable once the officer abandons the initial purpose in order to aid in a search for contraband).

Here, the third *de minimis* deviation occurred when Sproat spoke with the canine officer while waiting for dispatch to respond to his records check request. Respondent argues that because Sproat’s discussion was brief, no unreasonable extension of the traffic stop occurred. (Resp’t Br.,

pg. 9). However, this contention directly conflicts with *Linze* and *Rodriguez*. The court in *Rodriguez* allowed for dog sniffs, but only when they do not add time to the stop. *Linze* also supports canine searches, however, it held that conducting the traffic-related tasks expeditiously does not grant the seizing officer bonus time to pursue unrelated criminal investigation. Thus, it follows that the Respondent's argument fails in that this waiting or idle time, does not grant the police unlimited power to go on a fishing expedition or pursue an unrelated criminal investigation. In conclusion, this Court should reverse the district court's decision to deny Mr. Renteria's motion to suppress because, pursuant to *Linze* and *Rodriguez*, the timing of Sproat's third deviation does not matter or allow him to unlawfully prolong the purpose of the initial stop and violates Mr. Renteria's Fourth Amendment rights.

III. CONCLUSION

In conclusion, Mr. Renteria respectfully requests that this Court reverse the district court's denial of his motion to suppress based on the three *de minimis* deviations that, with the absence of a ruling on the reasonable suspicion issue, unlawfully prolonged the purpose of the initial traffic stop, in violation of the Fourth Amendment. Mr. Renteria is not disputing the validity of the initial stop or his seizure in order for Sproat to conduct the routine tasks related to the traffic infraction. Rather, the full-blown drug investigation that began almost immediately after Sproat pulled him over, when the original purpose of the traffic stop concerned his traffic violation, Sproat requesting the K-9 unit before calling in Mr. Renteria's information, and ceasing to diligently pursue the purpose of the stop to discuss with the canine officer his reasons for believing Mr. Renteria was involved in drug activity.

What the Respondent and district court believe is that everything that occurred to Mr. Renteria, from the initiation of the traffic stop to its end, constitutes as "routine" and

constitutionally acceptable under Fourth Amendment principles. Further, Sproat's actions cannot constitutionally be called "multi-tasking," when in accordance with *Rodriguez* and *Linze*, such completion of all traffic-related tasks does not earn the police bonus time to pursue unrelated criminal investigations. For the reasons stated herein, Mr. Renteria respectfully requests that this Court reverse the decision of the district court denying the motion to suppress and remand this case for further proceedings consistent with the Court's opinion.

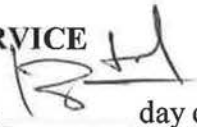
DATED this 18th day of October, 2017.

RAMIREZ-SMITH & TVINNEREIM

By _____

DEENA TVINNEREIM
ATTORNEY FOR THE APPELLANT

IV. CERTIFICATE OF SERVICE

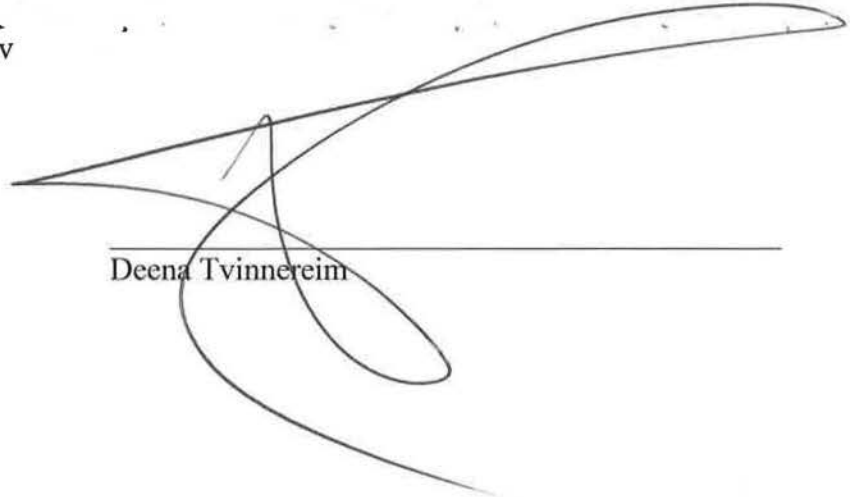


I hereby certify that on the 18 day of October 2017, I caused a true and correct copy of the foregoing document to be served upon the following person(s) in the following manner:

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