

Uldaho Law

Digital Commons @ Uldaho Law

Not Reported

Idaho Supreme Court Records & Briefs

8-26-2021

State v. Huston Respondent's Brief Dckt. 48367

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

Recommended Citation

"State v. Huston Respondent's Brief Dckt. 48367" (2021). *Not Reported*. 7098.
https://digitalcommons.law.uidaho.edu/not_reported/7098

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. 48367-2020
Plaintiff-Appellant,)	
)	GEM COUNTY CASE
)	NO. CR23-19-0182
v.)	
)	
DACE S. HUSTON,)	
)	
Defendant-Respondent.)	
_____)	

BRIEF OF RESPONDENT

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

HONORABLE TYLER D. SMITH
Magistrate Judge

HONORABLE D. DUFF McKEE
District Judge

MARK P. COONTS
Gem County Public Defender
I.S.B. #7689
323 E. Main St.
Emmett, ID 83617
208-365-4548
E-mail: gempublicdefender@gmail.com

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

**ATTORNEY FOR
DEFENDANT-RESPONDENT**

**ATTORNEY FOR
PLAINTIFF-APPELLANT**

TABLE OF CONTENTS

	<u>PAGE</u>
TABLE OF AUTHORITIES	ii-iii
STATEMENT OF THE CASE.....	1
Nature of the Case.....	1
Statement of the Facts and Course of Proceedings	1
ISSUE PRESENTED ON APPEAL.....	3
ARGUMENT.....	3
The District Court Correctly Reversed the Magistrate’s Denial of the Motion To Suppress....	3
A. Introduction	3
B. Standard Of Review.....	4
C. The District Court Correctly Reversed The Magistrate Denial of Huston’s Motion to Suppress.....	4
1. Detective McIntosh Illegally Seized Huston in the Pull-Out Area.....	6
2. Detective McIntosh’s Illegal Seizure Cannot be Justified by the Community Caretaking Function of Law Enforcement.....	6
CONCLUSION.....	9
CERTIFICATE OF MAILING.....	10

TABLE OF AUTHORITIES

Cases

Cady v. Dombrowski, 413 U.S. 433, 93 S.Ct. 2523 (1973).....7

California v. Hodari D., 499 U.S. 621, 111 S.Ct. 1547 (1991).....5

In re Clayton, 113 Idaho 817, 748 P.2d 401 (1988).....7

Florida v. Bostick, 501 U.S. 429, 111 S.Ct. 2382 (1991).....5

State v. Baker, 141 Idaho 163, 107 P.3d 1214 (2004).....5

State v. Byrum, 167 Idaho 735, 476 P.3d 402 (Ct. App. 2020).....4

State v. Fry, 122 Idaho 100, 105 831 P.2d 942, 946 (Ct. App. 1991).....7

State v. Godwin, 121 Idaho 491, 826 P.2d 452 (1992). 7

State v. Guzman, 122 Idaho 981, 842 P.2d 660 (1992) 5

State v. Henage, 143 Idaho 655, 152 P.3d 16 (2007).....5

State v. Klinger, 143 Idaho 494, 149 P.3d 1240 (2006)..... 4

State v. Korn, 148 Idaho 413, 224 P.3d 480 (2009)..... 4, 5, 9

State v. Linze, 161 Idaho 605, 389 P.3d 150 (2016).....4

State v. Maddox, 137 Idaho 464, 54 P.3d 464 (Ct. Ap. 2002).....8, 9

State v. Maland, 140 Idaho 817, 103 P.3d 430 (2004).....5

State v. Nickel, 134 Idaho 610, 7 P.3d 219 (2000) 5, 6

State v. Page, 140 Idaho 841, 103 P.3d 454 (2004)..... 5, 6

State v. Reese, 132 Idaho 652, 978 P.2d 212 (1999).....5

State v. Schmidt, 137 Idaho 301, 47 P.3d 1271 (Ct. App. 2002).....7, 8

State v. Trusdall, 155 Idaho 965, 318 P.3d 955 (Ct. App. 2014).....4

State v. Wixom, 130 Idaho 752, 947 P.2d 1000 (1997)..... 7

State v. Willoughby, 211 P.3d 91, 147 Idaho 482 (2009).....5

Terry v. Ohio, 392 U.S. 1, 19 n. 16, 88 S.Ct. 1868 1879 (1968).....5

Wong Sun v. United States, 371 U.S. 471 (1963) 5

Constitutional Authorities

U.S. Const. amend. IV 4

STATEMENT OF THE CASE

Nature of the Case

The State appeals from the district court's intermediate appellate order reversing the magistrate court's denial of Dace Huston's motion to suppress. This Court should affirm the district court's decision because it correctly concluded law enforcement violated Huston's Fourth Amendment Rights. The district court correctly concluded the totality of the circumstances would have made it unreasonable for Huston to feel that he would be free to terminate the contact with Detective Jason McIntosh. ("Det. McIntosh") Further the district court determined that the community caretaking function did not justify the encounter.

Statement of the Facts and Course of Proceedings

In the early morning hours of February 7, 2019, Det. McIntosh was on patrol in Gem County. (Tr. p.6, L. 5 – 22.) He saw headlights coming towards him, but never reached his location. (Tr. p.7, L. 2 – 15.) At that point, Det. McIntosh got suspicious that the vehicle had not crossed his location and went to investigate whether a crime was being committed. (Tr. p.21, L. 4 – 12.) Det. McIntosh drove to investigate and located a vehicle legally stopped in the pull-out area and the headlights were still on. (Tr. p.11, L. 10-14.) Det. McIntosh testified that stopping alongside the road at night constitutes reasonable articulable suspicion of criminal activity. (Tr. p.23, L. 25 – p 24, L 10.) Both the vehicle and Det. McIntosh were well off the road and away from the lanes of travel for the road. (Tr. p.20, L. 3 – 5.) Det. McIntosh pulled behind the vehicle, activated his emergency lights, informed dispatch of his location, and approached Huston. (Tr. p.11, L. 16-19.) At that time, Detective McIntosh had no other justification to make contact, other than his curiosity. (Tr. p.21, L. 3 – p. 22, L. 2.)

As he approached, Det. McIntosh informed Huston that the emergency lights were on for safety, and that he was free to leave at any time. (Tr. p.11, L. 19-21.) There was no evidence, or inquiry about an accident or if Huston's vehicle was broken. (Tr. p.6, L.6-7.) Det. McIntosh quickly asked to see Huston driver's license. (Tr. p.11, L. 21-22.) At that time, Det. McIntosh smelled the odor of an alcoholic beverage on Huston's breath and began conducting a Driving Under the Influence investigation. (Tr. P 29, L. 1-8.) The interaction between Det. McIntosh and Huston can be seen in its entirety in the on-body video submitted as State's Exhibit A.

Huston filed a motion to suppress in front of the magistrate court. In denying Huston's motion, the magistrate concluded that no seizure occurred. (R., p. 65.) The magistrate found that since Huston made no attempt to leave, and did not object, the encounter was consensual. *Id.* On appeal, the district court reversed the magistrate's denial. (R., 107-108.) The district court held that Huston was seized because he was approached by an officer, with a side arm, who had pulled behind Huston with activated emergency lights. (R., p. 116.) Ultimately, the district court concluded that the detention could not be justified by reasonable suspicion or the community caretaking function. (R., pp 118-21.)

ISSUE

Did the district court correctly reverse the magistrate court's denial of Huston's motion to suppress?

ARGUMENT

The District Court Correctly Reversed the Magistrate Court's Denial of Huston's Motion To Suppress

A. Introduction

The district court correctly reversed the magistrate on intermediate appeal. The magistrate erred when concluding that no seizure occurred when a law enforcement vehicle pulled behind Huston with its emergency lights activated and a uniformed sheriff's detective approached. Based on the totality of the circumstances, Det. McIntosh illegally seized Huston despite the statement that Huston was free to leave, and the lights were on for safety. When uniformed law enforcement activates emergency lights, stops, and exits a patrol vehicle to approach a driver, a reasonable person would not jump in their vehicle drive away. Therefore, the district court correctly concluded that Det. McIntosh's conduct constituted an illegal seizure and violated Huston's rights.

The seizure cannot be justified by under the doctrine of community caretaking either. There was no indication that Huston was in any type of distress. There was no inquiry into Huston's welfare. Det. McIntosh stopped behind Huston to investigate crime or curiosity. Therefore, the community caretaking function of law enforcement cannot justify the seizure.

B. Standard Of Review

For an appeal from the district court, sitting in its appellate capacity over a case from the magistrate division, the court reviews the magistrate court record to determine whether there is substantial and competent evidence to support the magistrate court's findings of fact and whether the magistrate court's conclusions of law follow from those findings. *State v. Korn*, 148 Idaho 413, 415, 224 P.3d 480, 482 (2009). However, as a matter of appellate procedure, the disposition of the appeal will affirm or reverse the decision of the district court. *State v. Trusdall*, 155 Idaho 965, 968, 318 P.3d 955, 958 (Ct. App. 2014). Thus, the Court “reviews the magistrate court's findings and conclusions, whether the district court affirmed or reversed the magistrate court and the basis therefor, and either affirm or reverse the district court.” *State v. Byrum*, 167 Idaho 735, 476 P.3d 402 (Ct. App. 2020).

The standard of review of a suppression motion is bifurcated. When a decision on a motion to suppress is challenged, the appellate court accepts the trial court’s finding of fact that are supported by substantial evidence, but freely reviews the application of constitutional principles to those facts. *State v. Klinger*, 143 Idaho 494, 496, 149 P.3d 1240, 1242 (2006).

C. The District Court Correctly Reversed The Magistrate Court Because Det. McIntosh Illegally Seized Huston.

The Fourth Amendment of the United States Constitution provides 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.” *U.S. Const. amend. IV*. The stop of a vehicle by law enforcement constitutes a seizure of its occupants to which the Fourth Amendment applies. *State v. Linze*, 161 Idaho 605, 608 (2016). 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).

An encounter between a law enforcement officer and a citizen does not trigger Fourth Amendment scrutiny unless it is nonconsensual. *State v. Baker*, 141 Idaho 163, 165, 107 P.3d 1214, 1216 (2004) (citing *Florida v. Bostick*, 501 U.S. 429, 434, 111 S.Ct. 2382 2386 (1991)).

"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, 7 P.3d 219, 221 (2000) (quoting *Terry v. Ohio*, 392 U.S. 1, 19 n. 16, 88 S.Ct. 1868 1879, 20 L.Ed.2d 889, 904 (1968)).

When a defendant seeks to suppress evidence that is alleged to have been obtained as a result of an illegal seizure, the defendant bears the burden of proving that a seizure occurred. *State v. Page*, 140 Idaho 841, 843, 103 P.3d 454, 456 (2004) (citing *State v. Reese*, 132 Idaho 652, 654, 978 P.2d 212, 214 (1999)). "The test to determine if an individual is seized for Fourth Amendment purposes is an objective one" requiring an evaluation of "the totality of the circumstances." *State v. Willoughby*, 211 P.3d 91, 147 Idaho 482 (Idaho 2009) (citing *State v. Henage*, 143 Idaho 655, 658, 152 P.3d 16, 19 (2007)). The use of “overhead lights is a significant factor a court must consider when considering the totality of the circumstances..." *Willoughby*, 211 P.3d 91, 147 Idaho 482 (Idaho 2009).

A seizure initiated through a show of authority requires words or actions, or both, by a law enforcement officer that would convey to a reasonable person that the officer was ordering him or her to restrict his or her movement. *State v. Maland*, 140 Idaho 817, 820, 103 P.3d 430, 433 (2004) (citing *California v. Hodari D.*, 499 U.S. 621, 111 S.Ct. 1547, 113 L.Ed.2d 690 (1991)). If a reasonable person would feel free to disregard the law enforcement officer, then the

encounter is consensual. *Page*, 140 Idaho at 843-44, 103 P.3d at 456-57 (citing *Nickel*, 134 Idaho at 613, 7 P.3d at 222).

1. Det. McIntosh illegally seized Mr. Huston in the pull-out area.

Det. McIntosh illegally detained Huston in the pull-out area. The district court correctly overturned the magistrate's conclusion that the facts constituted a consensual encounter. (R. p. 115.) In determining the interaction constituted a seizure, the district court correctly evaluated the totality of the circumstances. Det. McIntosh pulled his law enforcement vehicle in behind a legally parked vehicle and activated his overhead lights. (Tr. p.11, L. 16-19.) Det. McIntosh got out of his vehicle and approached Huston. (R. p. 115.) While Det. McIntosh approached, he was in full uniform and carried a sidearm. *Id.* The subjective intent of Det. McIntosh for activating his lights is irrelevant in the inquiry. Objectively, flashing law enforcement lights means that a driver must stop. Huston obeyed all the Det. McIntosh's requests. (R. p. 117). There is no indication he heard that he was free to leave based on his compliance. *Id.*

Det. McIntosh's emergency lights flashing is not the only element that should be present for a totality of the circumstances analysis. While flashing lights are a significant factor in the inquiry, there were other factors that led the seizure by law enforcement. Det. McIntosh pulled behind Huston, activated his emergency lights, got out of the vehicle, and walked towards his location. Det. McIntosh was in uniform and carried a sidearm. That, objectively, constituted a seizure. These facts made Huston, or a reasonable person in his position, to conclude that he was not free to terminate the contact. At that time, Det. McIntosh had no other justification to make contact, other than his curiosity. Therefore, by making contact, Det. McIntosh illegally seized Huston in the roadside pull-out.

2. Det. McIntosh's Illegal Seizure Cannot be Justified by the Community Caretaking Function of Law Enforcement.

The Appellant failed to demonstrate that the illegal seizure could be justified by the community caretaking function for two reasons. First, Det. McIntosh stopped to investigate a crime. Second, Det. McIntosh made no inquiry into Huston's well-being, saw no signs of distress, or saw no indication of an accident. Therefore, the community caretaking function cannot justify law enforcement's actions in this case.

In analyzing community caretaking function cases, Idaho has adopted a totality of the circumstances test. *State v. Wixom*, 130 Idaho 752, 754, 947 P.2d 1000, 1002 (1997). The constitutional standard is whether the intrusive action of the police was reasonable in view of all the surrounding circumstances. *Id.* Reasonableness is determined by balancing the public need and interest furthered by the police conduct against the degree and nature of the intrusion upon the privacy of the citizen. *State v. Godwin*, 121 Idaho 491, 495, 826 P.2d 452, 456 (1992).

For the community caretaking function analysis to apply, an officer must possess a subjective belief that an individual needs immediate assistance, although the officer may harbor at least an expectation of detecting or finding evidence of a crime. *State v. Schmidt*, 137 Idaho 301,304, 47 P.3d 1271, 1274 (Ct. App. 2002)(citing *In re Clayton*, 113 Idaho 817, 818, 748 P.2d 401, 402 (1988)). The officers' activity must be one that is "totally divorced from the detection, investigation, or acquisition of evidence relating to the violation of a criminal statute." *State v. Fry*, 122 Idaho 100, 105 831 P.2d 942, 946 (Ct. App. 1991)(citing *Cady v. Dombrowski*, 413 U.S. 433, 441, 93 S.Ct. 2523, 2528 (1973)).

In *State v. Schmidt*, 137 Idaho 301, 47 P.3d 1271 (Ct. App. 2002) the Court of Appeals affirmed the district court's conclusion that the community caretaking function did not justify law enforcement's seizure. The officer was on routine patrol and saw a vehicle in an

unimproved pull-out twenty to thirty feet off the road. *Id.* at 302, 1272. The officer thought that a vehicle had crashed or run off the road. He stopped in front of the vehicle, blocking any ability to exit and activated his emergency lights. *Id.* As law enforcement approached the vehicle, he saw two occupants. After checking with the driver of the vehicle to see if they were alright, the officer smelled and located marijuana. At a suppression hearing, the magistrate court granted the motion to suppress. The district court reversed on appeal.

The Court of Appeals reversed the district court's ruling. It concluded that the detention of the passengers by law enforcement could not be justified by the community caretaking function. The Court of Appeals noted that there were no indications that the vehicle's occupants needed assistance, and the vehicle was lawfully parked. *Schmidt*, 137 at 304, 47 at 1274. While the officer may have had a subjective belief that the vehicle needed assistance, the correct inquiry looks at all the surrounding circumstances. *Id.*

Similarly, in *State v. Maddox*, 137 Idaho 464, 54 P.3d 464 (Ct. Ap. 2002), the Court of Appeals similarly concluded that the detention by law enforcement could not be justified by the community caretaking function. *Maddox*, 137 Idaho at 141, 54 P.3d at 468. Law enforcement was out on a routine patrol and met a driver out searching for a friend. *Id.* at 142, at 467. While the car and driver proceeded to try to drive up a motorcycle trail, law enforcement followed and activated his overhead lights. *Id.* The car stopped, and Maddox got out of the vehicle. Law enforcement subsequently found out that Maddox was not supposed to be driving and eventually discovered marijuana and methamphetamine in the vehicle. *Id.* At the suppression hearing, the district court concluded that the community caretaking function justified the seizure. The Court of Appeals reversed the district court's decision. It determined that under the totality of the circumstances, law enforcement had no justification for stopping Maddox.

Like the justification in both *Maddox* and *Schmidt*, Det. McIntosh's detention cannot be justified by the community caretaking function under the totality of the circumstances. From his testimony, Det. McIntosh was investigating a crime. He testified he stopped to make sure that nothing illegal is happening. (Tr. p.24, L. 5-10.) He stopped to both make sure that the driver was ok and to make sure that nothing illegal is happening. (Tr. p.24, L. 2-10.) Det. McIntosh made no inquiry into Huston's safety or well-being. (Tr. p. 22, L. 6-9.) There were no signs of any accident or crash. (Tr. p.21, L. 16-18.)

There was no objective indication of an accident or that Huston was in distress. Therefore, there is no justifying the contact with the community caretaking function.

CONCLUSION

Huston respectfully requests that this Court affirm the district court's order reversing the magistrate court's order denying his motion to suppress.

DATED this 26th day of August, 2021.

/s/ Mark Coonts
Mark P. Coonts
Gem County Public Defender
Attorney for Respondent

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 26th day of August, 2021, I served a true and correct copy of the foregoing RESPONDENT'S BRIEF, to the attorney listed below by means of iCourt File and Serve:

ANDREW V. WAKE
DEPUTY ATTORNEY GENERAL
CRIMINAL DIVISION
ecf@ag.idhao.gov

/s/ Mark Coonts
Mark P. Coonts
Attorney for Respondent