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**IN THE SUPREME COURT OF THE STATE OF IDAHO**

STATE OF IDAHO, )  
 )  
 ) **No. 48440-2020**  
 ) **Plaintiff-Respondent,** )  
 ) **Bingham County Case No.**  
 **v.** ) **CR06-19-3803**  
 )  
 ) **APRIL DAWN RAMOS,** )  
 )  
 ) **Defendant-Appellant.** )  
 )  
 )

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**BRIEF OF RESPONDENT**

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**APPEAL FROM THE DISTRICT COURT OF THE SEVENTH JUDICIAL  
DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE  
COUNTY OF BINGHAM**

---

**HONORABLE DARREN B. SIMPSON**  
**District Judge**

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## STATEMENT OF THE CASE

### Nature Of The Case

April Dawn Ramos appeals from her conviction for possession of methamphetamine. She challenges the denial of her motion to suppress.

### Statement Of The Facts And Course Of The Proceedings

Law enforcement conducted a traffic stop of Ramos' vehicle for speeding. (PSI, p.8.) While one officer had Ramos perform standard field sobriety tests, another officer ran a drug dog around the vehicle. (PSI, p.8.) The drug dog alerted to the presence of drugs and a subsequent search of the vehicle revealed two baggies of methamphetamine, a needle, and a glass pipe. (PSI, p.8.) The state charged Ramos with possession of methamphetamine and possession of paraphernalia. (R., pp.31-32.)

Ramos filed a motion to suppress, arguing the traffic stop was "unreasonably prolonged" when the officer asked Ramos to perform standard field sobriety tests. (R., pp.48-52.) The state opposed Ramos' motion, arguing the officer had reasonable suspicion to investigate whether Ramos was impaired and therefore the stop was not unlawfully prolonged. (R., pp.62-66.)

The district court held a hearing on the motion. (See generally Tr.<sup>1</sup>) Officer Lawrence Henrie, a trained drug recognition expert, testified that he initiated a traffic stop of a vehicle that was speeding at 37 miles per hour in a 30 mile per hour zone. (Tr., p.5, L.20 – p.8, L.11.) The vehicle "ran into a curb and then came back into the roadway and then parked on the side of the

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<sup>1</sup> Citations to "Tr." refer to the November 19, 2019 transcript of the motion to suppress hearing, which appears in the transcript electronic document on pages 2-54. Citations to any other transcript will refer to that transcript by date.

road.” (Tr., p.8, Ls.12-14; Ex. 1 (dash camera) ~1:05.<sup>2</sup>) Officer Henrie testified that he’s “never had anyone run into a curb before when [he] was pulling them over” and “people who are not impaired generally don’t run into a curb when they’re pulling over to the side of the road.” (Tr., p.11, L.24 – p.12, L.3.) The vehicle came to a stop at the entrance to a parking lot but Officer Henrie testified that it did not appear that it had been trying to turn into the parking lot; the vehicle struck the curb at an angle consistent with pulling over and not at an angle consistent with trying to make a 90-degree turn. (See Tr., p.12, L.13 – p.13, L.25; p.16, Ls.16-23.) As video of the traffic stop was shown at the hearing, Officer Henrie noticed that the vehicle struck the curb a second time but he testified he had not noticed that during the traffic stop. (Tr., p.11, Ls.15-19; p.14, Ls.3-8; see also Ex. 1 (dash camera), ~1:05-1:20.)

As Officer Henrie approached the vehicle, he observed the driver, Ramos, “leaning kind of out of the car” with her hand, which appeared to be shaking, outside the window. (Tr., p.19, L.22 – p.20, L3; Ex. 1 (body camera), ~0:25.) Based on her behavior and the fact that she struck the curb, Officer Henrie requested backup as he approached the vehicle. (Tr., p.22, Ls.12-17; Ex. 1 (body camera), ~0:26.) As soon as he reached the driver’s window, Ramos began “uttering...rapidly” about why she struck the curb. (Tr., p.20, Ls.1-4; Ex. 1 (body camera), ~0:30.) Officer Henrie shined his flashlight into Ramos’ eyes and noticed her pupils “were slow to react” and never fully constricted, which he testified was consistent with drug impairment. (Tr., p.20, Ls.12-24.) Officer Henrie asked Ramos for her license, registration, and proof of insurance; Ramos stated she did not have insurance (and had recently received a citation for no

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<sup>2</sup> At the hearing, both the body camera and dash camera videos were admitted on a single disk as Exhibit 1. For consistency with the Appellant’s brief, citations will refer to the videos as either (dash camera) or (body camera). (See Appellant’s brief, p.2, n.2.)

insurance) and she was unable to locate her registration. (Tr., p.30, Ls.12-18; Ex. 1 (body camera), 0:40-2:20.) Officer Henrie noticed that Ramos appeared unable to multi-task; she was speaking rapidly throughout the encounter and seemed unable to respond to him and look for her documentation simultaneously. (Tr., p.21, Ls.1-18.)

Officer Henrie asked Ramos to exit the vehicle and he called in her information to dispatch. (See Tr., p.23, Ls.17-20; p.25, Ls.18-21; see also Ex. 1 (body camera), 2:20-2:57.) Officer Henrie heard back from dispatch with Ramos' information shortly thereafter. (Tr., p.25, L.22 – p.26, L.13; Ex. 1 (dash camera), ~4:10.) Officer Henrie testified that Ramos was having a hard time holding still, spinning her body around to point to the curb and “moving her arms continually” while they spoke. (Tr., p.25, Ls.3-9.)

Although he had not recognized her vehicle, Officer Henrie testified he recognized Ramos from previous encounters. (Tr., p.8, Ls.14-15; p.33, Ls.17-22.) He testified he has encountered Ramos “a handful of times...both sober and impaired,” and could distinguish between when she was sober and when she was impaired. (Tr., p.8, Ls.18-24.) Officer Henrie testified that Ramos typically has a more relaxed demeanor than he observed during the stop. (Tr., p.23, Ls.1-10.) Ramos was speaking more rapidly than she does when she is sober. (Tr., p.39, Ls.19-23.) Additionally, Ramos' body movements were consistent with when she is under the influence, not when she is sober. (Tr., p.25, Ls.3-14.) Based on Ramos' driving pattern and behavior, in light of his prior encounters with her, Officer Henrie believed Ramos was impaired. (See Tr., p.19, L.19 – p.23, L.16; p.24, L.25 – p.25, L.14.)

Officer Henrie had Ramos perform standard field sobriety tests. (See Tr., p.26, L.14 – p.28, L.12; Ex.1 (body camera), 4:40-9:00.) He did not see any indicators of impairment during the horizontal gaze nystagmus, but testified that was typical of someone under the influence of

certain types of drugs. (Tr., p.26, Ls.19-22.) He testified Ramos' "pupils were still showing the dilation" he noticed when she was in her vehicle and she was having a hard time holding her head still. (Tr., p.26, L.25 – p.27, L.2.) On the walk-and-turn test, Ramos "was unable to maintain the instruction stance," missed heel-to-toe, stepped off of the line, and asked if she was supposed to walk back after turning. (Tr., p.27, L.8 – p.28, L.5.) On the one-leg stand, Ramos "was unable to keep her hands at her side." (Tr., p.28, Ls.7-12.) Ramos' performance was insufficient for Officer Henrie to continue investigating potential drug impairment. (See Tr., p.28, Ls.13-19.)

As Officer Henrie conducted the field sobriety tests, Officer Jerrod Miller, who arrived to assist, deployed his drug dog; the dog alerted to Ramos' vehicle in "[p]robably less than a minute" (Tr., p.41, Ls.14-15; p.43, Ls.11-13; p.44, Ls.2-10.) After the tests were completed, Deputy Miller informed Officer Henrie that the drug dog had alerted on Ramos' vehicle. (Tr., p.29, Ls.1-4; Ex. 1 (body camera), ~9:56.) Thereafter, the officers searched the vehicle and found drugs inside. (Tr., p.29, Ls.17-21; Ex. 1 (dash camera), 12:40-46:35.)

After taking the matter under advisement, the district court issued an order denying Ramos' motion to suppress. (R., pp.83-95; Tr., p.50, Ls.21-25.) The district court concluded that "Officer Henrie had before him a number of factors which gave him reason to suspect that Ramos might be driving in an impaired state": (1) Ramos struck the curb once and then a second time; (2) Ramos was leaning out of the vehicle as Officer Henrie approached; (3) Ramos was rapidly flicking a cigarette, which appeared to Officer Henrie to be gesturing; (4) Ramos began speaking immediately; (5) Ramos "continued to chatter, sometimes speaking over Henrie"; (6) "Henrie knew Ramos from prior interactions and noted her demeanor was more agitated than usual"; and (7) Ramos' pupils did not fully constrict. (R., p.91-92.) "These observations, based

on Officer Henrie’s training, experience, and prior contacts with Ramos allowed Officer Henrie to reasonably infer that Ramos might be driving under the influence of narcotics.” (R., p.92.) The district court addressed Ramos’ argument that “many of her allegedly suspicious actions, such as driving up on the curb, speeding, and speaking rapidly,” could be explained by nervousness rather than impairment and concluded that Officer Henrie’s observation that “Ramos’ pupils did not contract normally to a flashlight beam...together with his prior experience with Ramos, Ramos’ difficulty controlling her vehicle, and her chattiness gave rise to a reasonable inference that Ramos was likely impaired.” (R., p.93.)

Thereafter, Ramos entered a conditional guilty plea to possession of methamphetamine, specifically reserving her right to appeal the district court’s denial of her motion to suppress, and the state dismissed the possession of paraphernalia charge. (R., pp.114-25; 7/28/2020 Tr., p.12, L.4 – p.13, L.2.) The district court sentenced Ramos to seven years with three years fixed, and suspended the sentence. (R., pp.146-48; 11/2/2020 Tr., p.18, Ls.17-19.) Ramos filed a timely notice of appeal. (R., pp.154-55, 162-65.)

## ISSUE

Ramos states the issue on appeal as:

Whether the district court erred by considering facts not known [to] the officer at the time when evaluating whether he had reasonable suspicion to extend a traffic stop to conduct field sobriety tests.

(Appellant's brief, p.6.)

The state rephrases the issue as:

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

## ARGUMENT

### Ramos Has Failed To Show That The District Court Erred When It Denied Her Motion To Suppress

#### A. Introduction

Ramos argues that the district court erred in its order denying her motion to suppress by considering facts that were not known to the officer at the time of the traffic stop: (1) that Ramos struck the curb a second time; and (2) that Ramos' pupils did not fully constrict during the field sobriety tests.<sup>3</sup> (Appellant's brief, pp.7-10.) Ramos has failed to show reversible error. The officer was aware of Ramos' pupil dilation prior to conducting the field sobriety tests. Further, although he did not know she struck the curb a second time, the officer observed Ramos strike the curb once when pulling over. The district court's reference to the second strike was not determinative in its conclusion that Officer Henrie had reasonable suspicion. Nonetheless, if the district court erred by considering the second strike, reversal is not warranted. The totality of the circumstances known to the officer at the time demonstrate that he had reasonable suspicion to investigate whether Ramos had been driving while impaired.

#### 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 appellate court accepts the trial court's findings of fact that are supported by substantial evidence, but freely reviews the application of constitutional principles to those facts. State v. Klingler, 143 Idaho 494, 496, 148 P.3d 1240, 1242 (2006). "At a suppression hearing, the power to assess the credibility of witnesses, resolve factual conflicts,

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<sup>3</sup> Ramos does not otherwise challenge the district court's denial of her motion to suppress, nor does she argue that Officer Henrie lacked reasonable suspicion to conduct the field sobriety tests.

weigh evidence, and draw factual inferences is vested in the trial court.” State v. Pieper, 163 Idaho 732, 734, 418 P.3d 1241, 1243 (Ct. App. 2018). “Determinations of reasonable suspicion are reviewed de novo.” State v. Morgan, 154 Idaho 109, 111, 294 P.3d 1121, 1123 (2013).

C. The District Court Did Not Err When It Denied Ramos’ Motion To Suppress

“Under the Fourth Amendment, an officer may stop a vehicle to investigate possible criminal behavior if there is a reasonable and articulable suspicion that the vehicle is being driven contrary to traffic laws.” State v. Still, 166 Idaho 351, \_\_\_, 458 P.3d 220, 223 (Ct. App. 2019). “An officer may also require the occupants to exit the vehicle during a traffic stop.” State v. Jacobsen, 166 Idaho 832, 834, 464 P.3d 318, 320 (Ct. App. 2020) (citing Maryland v. Wilson, 519 U.S. 408, 412 (1997)). However, the traffic stop must be temporary and “last no longer than necessary to effectuate” the purpose of the stop. Rodriguez v. United States, 575 U.S. 348, 354 (2015); see also State v. Ramirez, 145 Idaho 886, 889, 187 P.3d 1261, 1264 (Ct. App. 2008). “The stop remains a reasonable seizure while the officer diligently pursues the purpose of the stop, to which that reasonable suspicion is related. However, should the officer abandon the purpose of the stop, the officer no longer has that original reasonable suspicion supporting his actions.” State v. Linze, 161 Idaho 605, 609, 389 P.3d 150, 154 (2016).

That being said, “the justification for the detention of a motorist is not permanently fixed at the moment the traffic stop is initiated.” State v. Wigginton, 142 Idaho 180, 183, 125 P.3d 536, 539 (Ct. App. 2005). “Subsequent observations and events can give rise to legitimate reasons for investigation of criminality differing from that which initially prompted the stop.” State v. Renteria, 163 Idaho 545, 550, 415 P.3d 954, 959 (Ct. App. 2018). “[A]ny routine traffic stop might turn up suspicious circumstances, which could justify an officer asking questions

unrelated to the stop. The officer’s observations, general inquiries, and events succeeding the stop may—and often do—give rise to legitimate reasons for particular lines of inquiry and further investigation by an officer.” State v. Myers, 118 Idaho 608, 613, 798 P.2d 453, 458 (Ct. App. 1990). “If officers acquire reasonable suspicion of other crimes during the course of a traffic investigation ... they may investigate those crimes.” Renteria, 163 Idaho at 550, 415 P.3d at 959; see also State v. Buell, 145 Idaho 54, 56, 175 P.3d 216, 218 (Ct. App. 2008) (noting that field sobriety tests may be conducted during an otherwise permissible detention if justified by reasonable suspicion).

Evidence sufficient to establish reasonable suspicion is “less than that necessary to establish probable cause” but requires “more than a mere hunch.” State v. Bishop, 146 Idaho 804, 811, 203 P.3d 1203, 1210 (2009). Reasonable suspicion must be based on specific, articulable facts and the rational inferences that can be drawn from those facts. Id. Whether an officer possessed reasonable suspicion is evaluated based on the totality of the circumstances known to the officer. State v. Sheldon, 139 Idaho 980, 983, 88 P.3d 1220, 1223 (Ct. App. 2003). “[A]n officer may draw reasonable inferences from the facts in his possession, and those inferences may be informed by the officer’s experience and law enforcement training.” State v. Montague, 114 Idaho 319, 321, 756 P.2d 1083, 1085 (Ct. App. 1988).

In determining whether an officer had reasonable suspicion, this Court “considers the totality of the circumstances rather than viewing individual facts in isolation.” State v. Kelley, 159 Idaho 417, 424, 361 P.3d 1280, 1287 (Ct. App. 2015). “Even where any individual factor ‘is not by itself proof of any illegal conduct and is quite consistent with innocent’ conduct, a court may nonetheless conclude that the factors amount to reasonable suspicion when taken together.” Id. (quoting United States v. Sokolow, 490 U.S. 1, 9-10 (1989)). “[T]he existence of alternative

innocent explanations of the circumstances does not negate the fact that the officer had reasonable suspicion that a crime might have been committed.” State v. Rader, 135 Idaho 273, 276, 16 P.3d 949, 952 (Ct. App. 2000).

Officer Henrie had reasonable suspicion to conduct field sobriety tests. As the district court noted, Officer Henrie observed Ramos speeding. (R., p.85; Tr., p.8, Ls.10-11.) When he activated his overhead lights, Ramos struck the curb as she was pulling over. (R., pp.85, 91-92; Tr., p.8, Ls.12-14.) Before Officer Henrie reached the vehicle, Ramos was leaning towards the window with her hand outside, apparently shaking or gesturing rapidly. (R., pp.85, 92; Tr., p.19, L.22 – p.20, L.3.) Once Officer Henrie made contact with Ramos, she immediately began speaking rapidly and often over him. (R., pp.85-86, 92; Tr., p.20, Ls.1-4.) She had trouble multi-tasking and would stop searching for her documentation to respond to Officer Henrie’s questions. (Tr., p.21, Ls.1-18.) Officer Henrie, who was familiar with Ramos both sober and under the influence, testified that Ramos was not acting normally or speaking as she would if she were sober and he suspected she was impaired. (R., pp.86, 92; Tr., p.23, Ls.1-10; p.39, Ls.19-23.) When Officer Henrie shined his flashlight in her eyes, he noticed that Ramos’ pupils did not fully constrict, which indicated to him that she was under the influence of drugs. (R., pp.86, 92; Tr., p.20, Ls.12-24.) All of these factors, known to Officer Henrie at the time of the traffic stop, were sufficient to give rise to a reasonable suspicion that Ramos was impaired. Therefore, the district court did not err when it denied Ramos’ motion to suppress.

Ramos asserts that the district court erred by considering two facts not known to Officer Henrie prior to asking Ramos to perform the field sobriety tests: (1) that Ramos struck the curb a second time; and (2) that Ramos’ pupils did not completely constrict during the sobriety tests. (Appellant’s brief, pp.9-10.) First, the fact that Ramos’ pupils did not constrict during the

sobriety tests was not a fact unknown to Officer Henrie; Ramos' pupil dilation at that time was merely a continuation of the pupil dilation that the officer recognized earlier in the stop. Second, the fact that Ramos hit the curb a second time was merely further evidence of Ramos' difficulty controlling her vehicle driving that Officer Henrie noticed at the time of the stop. Even if the district court erred by considering information not known to the officer at the time, the totality of the circumstances demonstrate that Officer Henrie had reasonable suspicion to investigate whether Ramos had been driving while impaired.

First, Ramos is incorrect that her pupil dilation during the field sobriety test was a fact unknown to Officer Henrie before he conducted the field sobriety tests. Officer Henrie testified that Ramos' pupils did not constrict when he shined the flashlight in her eyes while she was sitting in the vehicle. (Tr., p.20, Ls.12-24.) He testified that later, when he was conducting the field sobriety tests, "[t]he pupils were still showing the same dilation that [he] was talking about, that [he] saw inside the car." (Tr., p.26, L.25 – p.27, L.1.) The district court's findings of fact reflect Officer Henrie's testimony: "Officer Henrie shined his flashlight into Ramos's eyes and noted that her pupils constricted very slowly. He testified that Ramos's eyes never fully constricted, even during his later field sobriety testing." (R., p.86.) Officer Henrie knew that Ramos' pupils never fully constricted prior to the field sobriety tests; the fact that her pupils remained dilated throughout the traffic stop is not a new fact that was unknown to the officer. Ramos has failed to show clear error in that factual finding.

Second, although Officer Henrie did not observe the fact that Ramos struck the curb a second time until he watched his video, that fact merely reinforces the observation already made by Officer Henrie—that Ramos had difficulty controlling her vehicle as she pulled over. Officer Henrie observed Ramos strike the curb forcefully as she was pulling over and he testified that it

raised his concerns that she may be impaired. (Tr., p.8, Ls.12-14.) The district court recognized that Ramos' "difficulty controlling her vehicle" supported Officer Henrie's reasonable suspicion. (R., p.93.) The district court's finding that Ramos' right passenger tire went up on the curb again as the vehicle came to a stop, which is demonstrated by the video but was not noticed by Officer Henrie at the time, does not change the reasonable suspicion calculus, in light of the earlier strike that the officer noticed.

Even if the district court erred by considering that Ramos struck the curb a second time, it did not err when it denied Ramos' motion to suppress. Ramos does argue that Officer Henrie lacked reasonable suspicion but argues only that "the decision is tainted and should be reversed." (Appellant's brief, p.10.) However, this Court reviews reasonable suspicion de novo based on the totality of the circumstances; therefore reversal is not necessary. See Morgan, 154 Idaho at 111, 294 P.3d at 1123; State v. Bonner, 167 Idaho 88, 93, 467 P.3d 452, 457 (2020). As discussed above, the district court identified numerous unchallenged facts and circumstances that supported Officer Henrie's reasonable suspicion that Ramos was impaired. Even excluding the fact that Ramos struck the curb a second time or that her pupils remained dilated throughout the sobriety tests, the information known to Officer Henrie was sufficient to give rise to reasonable suspicion that Ramos was impaired. As the district court concluded, Officer Henrie observed "that Ramos' pupils did not contract normally to his flashlight beam. This observation, together with his prior experience with Ramos, Ramos' difficulty controlling her vehicle, and her chattiness gave rise to a reasonable inference that Ramos was likely impaired." (R., p.93.) That conclusion, based on facts known to Officer Henrie at the time, is not erroneous.

CONCLUSION

The state respectfully requests this Court to affirm the district court's denial of Ramos' motion to suppress.

DATED this 8th day of June, 2021.

/s/ Kacey L. Jones  
KACEY L. JONES  
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 8th day of June, 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:

BRIAN R. DICKSON  
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/s/ Kacey L. Jones  
KACEY L. JONES  
Deputy Attorney General

KLJ/dd