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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 45482
Plaintiff-Respondent,)	
)	KOOTENAI COUNTY NO. CR 2017-2036
v.)	
)	
JOSETTE MARIE HORTON,)	APPELLANT'S BRIEF
)	
Defendant-Appellant.)	
_____)	

BRIEF OF APPELLANT

**APPEAL FROM THE DISTRICT COURT OF THE FIRST JUDICIAL
DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE
COUNTY OF KOOTENAI**

HONORABLE CYNTHIA K.C. MEYER
District Judge

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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	6
ARGUMENT	7
The District Court Erred When It Denied Ms. Horton’s Motion To Suppress, Because The Traffic Stop Was Not Justified By Reasonable Suspicion And Therefore Violated Her Constitutional Right To Be Free From Unreasonable Searches And Seizures	7
A. Introduction	7
B. Standard Of Review	8
C. The Officer Did Not Have Reasonable Suspicion To Justify The Traffic Stop	8
1. The Expired Washington Registration Did Not Violate Sections 49-430 Or 49-456	9
2. The District Court Violated The Rule Of Statutory Interpretation That Prohibits Revising An Unambiguous Statute Because It Would Produce Absurd Results	12
CONCLUSION	13
CERTIFICATE OF MAILING	14

TABLE OF AUTHORITIES

Cases

Delaware v. Prouse, 440 U.S. 648 (1979)9

Halen v. State, 136 Idaho 829 (2002)8

Mayer v. TPC Holdings, Inc., 160 Idaho 223 (2016)..... 10, 11

Rodriguez v. United States, 135 S. Ct. 1609 (2015)9

Schmerber v. California, 384 U.S. 757 (1966).....8

State v. Bishop, 146 Idaho 804 (2009) 8, 9, 13

State v. Hankey, 134 Idaho 844 (2000)8

State v. Henage, 143 Idaho 655 (2007).....9

State v. Koivu, 152 Idaho 511 (2012).....8, 13

State v. Linze, 161 Idaho 605 (2016)9

State v. Morgan, 154 Idaho 109 (2013)2, 12

State v. Yzaguirre, 144 Idaho 471 (2007).....10

Stout v. Key Training Corp., 144 Idaho 195 (2007)8

Terry v. Ohio, 392 U.S. 1 (1968)9

Verska v. St. Alphonsus Reg'l Med. Ctr., 151 Idaho 889 (2011)..... 10, 12

Statutes

I.C. § 18-2510(3).....2

I.C. § 37-2732(c)(1)2

I.C. § 49-101 11

I.C. § 49-102 11

I.C. § 49-119(9) 11

I.C. § 49-127	11
I.C. § 49-426	11
I.C. § 49-428	2, 3, 4
I.C. § 49-430	<i>passim</i>
I.C. § 49-431	11
I.C. § 49-432	11
I.C. § 49-456	<i>passim</i>
Ark. Code. Ann. §27-14-704(a)	12
Wash. Rev. Code § 46.16A.160(1)(a) & (b)	13

STATEMENT OF THE CASE

Nature of the Case

Josette Marie Horton asserts the district court erred when it denied her motion to suppress, because the traffic stop of her car was not justified by reasonable suspicion and therefore violated her constitutional right to be free from unreasonable searches and seizures.

The arresting officer did not have reasonable suspicion to justify the traffic stop, because Ms. Horton's expired out-of-state registration did not violate the Idaho motor vehicle statutes on renewal of registration or violations of registration provisions. The definitions of the terms used in those statutes mean the statutes only apply to vehicles registered under the laws of this state. But the district court, after it determined not allowing Idaho law enforcement officers to stop vehicles with expired out-of-state registration was "absurd," revised the statutes to cover vehicles registered outside Idaho. The district court therefore violated the rule of statutory interpretation that prohibits revising an unambiguous statute because it would produce absurd results.

Statement of the Facts and Course of Proceedings

In support of her motion to suppress, Ms. Horton asserted there was no reasonable suspicion to justify the traffic stop of her car with expired Washington State registration, for a violation of the Idaho statutes on renewal of registration or violation of registration provisions. She asserted those statutes did not apply to her car registered in Washington, because the definitions of the terms used in the statutes meant the statutes only applied to vehicles registered in Idaho. (*See* Tr. Apr. 7, 2017 (*hereinafter*, Tr.) p.45, L.3 – p.47, L.24.) The district court stated Ms. Horton's assertion that Idaho law enforcement officers could not stop an out-of-state vehicle for expired registration was "absurd." (*See* Tr. p.57, Ls.6-9.) The district court

determined the officer had reasonable suspicion to justify the traffic stop after seeing the expired Washington registration on Ms. Horton's car. (*See* Tr. p.57, L.13 – p.58, L.21.)

Thus, the district court denied the motion to suppress. (Tr. p.57, Ls.21-22.) Ms. Horton subsequently entered a conditional guilty plea to felony possession of a controlled substance¹ and felony major contraband,² preserving her right to appeal the denial of the motion to suppress. (*See* R. pp.51-53.)

The charges against Ms. Horton stemmed from the traffic stop. After the arresting officer, Idaho State Police Trooper Seth Green, stopped Ms. Horton's car, she admitted to having a marijuana pipe, and the officer detained her and found methamphetamine in the car. (*See* R. pp.7-8.) Once the officer arrested Ms. Horton and booked her into jail, another officer searched her and found more methamphetamine on her person.³ (*See* R. pp.8-9.)

Ms. Horton's motion to suppress asserted the warrantless traffic stop was unlawful and in violation of the Fourth Amendment to the United States Constitution and Article I, § 17 of the Idaho Constitution. (R. pp.32-33.) In the memorandum in support of the motion to suppress, she asserted the officer had no reasonable suspicion for the warrantless traffic stop. (R. p.37.) She cited *State v. Morgan*, 154 Idaho 109 (2013), where the Idaho Supreme Court held: "Idaho Code § 49-428 requires that a vehicle registered in Idaho display both front and rear license plates. This requirement does not extend to vehicles registered in other states." (R. p.39.) In

¹ I.C. § 37-2732(c)(1).

² I.C. § 18-2510(3).

³ Trooper Green arrested Ms. Horton for felony possession of a controlled substance, misdemeanor eluding, and misdemeanor possession of drug paraphernalia. (*See* R., p.8.) At the jail, after administering field sobriety tests, the officer also arrested her for driving under the influence. (*See* R., p.8.) At the end of the motion to suppress hearing, the district court stated, "I'm not going to deal with the eluding issue, even though it was raised and discussed. It was not made part of the motion to suppress." (Tr. p.58, Ls.13-15.)

light of *Morgan*, Ms. Horton asserted Idaho law enforcement officers have no jurisdiction to enforce the vehicle registration laws of other states. (R. p.39.) She asserted the officer had no authorization to enforce the vehicle registration laws of Washington, and thus the traffic stop was unreasonable. (*See* R. p.40.)

During the hearing on the motion to suppress, Trooper Green testified that, around midnight in Coeur d'Alene, he saw a car without a front license plate, which accelerated and turned sharply when he went to investigate whether it was registered in Idaho. (*See* Tr. p.10, L.4 – p.11, L.11.) The officer testified he made a U-turn, followed the car until it stopped and parked, and turned his front lights on and pulled up behind it. (*See* Tr. p.11, L.12 – p.12, L.19.) He testified he turned his lights on and pulled up behind the car because it “was displaying expired tabs.” (Tr. p.12, Ls.20-23.) The officer was able to see the rear license plate of the car was issued out of Washington. (Tr. p.12, L.24 – p.13, L.17.) Trooper Green testified he thought the car’s expired Washington registration was a violation of I.C. § 49-430, the renewal of registration statute. (*See* Tr. p.13, Ls.15-24.) While he did not issue a citation for the expired registration, he spoke with the driver of the car, Ms. Horton, about it. (*See* Tr. p.13, L.25 – p.14, L.22.)

The State contended section 49-430 was distinguishable from section 49-428, the display of license plates statute at issue in *Morgan*, because other states could require only the display of a rear license plate, while all states required registration of their vehicles. (*See* Tr. p.42, Ls.7-15.) The district court inquired if the appropriate statute here could have been I.C. § 49-456, the statute on violations of registration provisions, and not section 49-430. (*See* Tr. p.44, Ls.6-9.) The State argued there was a legal basis for the stop under either section 49-430 or section 49-456. (*See* Tr. p.44, Ls.10-22.)

When asked by the district court, Ms. Horton confirmed her assertion was that an Idaho law enforcement officer could not stop an out-of-state vehicle with expired registration. (Tr. p.45, Ls.3-7.) Ms. Horton asserted, “there’s no Idaho law that forbade[] an out-of-state vehicle from having expired registration. The Idaho statutes, the 400s, all deal with Idaho registration specifically.” (Tr. p.46, Ls.3-6.)

The district court asked about section 49-456, and Ms. Horton replied it did not apply to out-of-state vehicles for “the same reason that 49-428 doesn’t apply to out-of-state vehicles: Because the statute is only written and only directed towards Idaho vehicles.” (Tr. p.47, Ls.7-17.) Ms. Horton continued, stating “these statutes dealing with registration were written for and are only directed towards Idaho registered vehicles. The Idaho legislature did not write the registration statute and intend for it to apply to out-of-state vehicles.” (Tr. p.47, Ls.22-24.)

In its ruling, the district court determined the *Morgan* case was limited to its facts. (*See* Tr. p.56, L.14 – p.57, L.5.) The district court then stated, “I think it is absurd to believe or to accept the notion that law enforcement officers in Idaho cannot stop an out-of-state vehicle with expired registration.” (Tr. p.57, Ls.6-9.) The district court determined, “[t]hat would indicate a violation of the—of Idaho law, whether it’s found in Idaho Code Section 49-430 or 49-456 or some other code section that we haven’t discussed.” (Tr. p.57, Ls.9-12.)

According to the district court, “[i]t is required that vehicles operating in Idaho have current registration, and I think that any law enforcement officer would have reasonable, articulable suspicion for conducting a traffic stop when they perceive a vehicle with expired registration tabs.” (Tr. p.57, Ls.13-15.) The district court found the officer, who testified “that as he made the turn, he perceived that the license plate was from Washington, he could see that

the tabs were expired,” was credible.⁴ (*See* Tr. p.57, L.19 – p.58, L.12.) Thus, the district court determined the officer “had reasonable, articulable suspicion in perceiving the expired tabs and conducting the stop, turning on his lights after that.” (Tr. p.58, Ls.15-21.) The district court denied Ms. Horton’s motion to suppress. (Tr. p.58, Ls.21-22.)

Pursuant to a plea agreement that preserved her right to appeal the denial of the motion to suppress, Ms. Horton agreed to plead guilty to the charged offenses. (*See* R. pp.51-53, 57-59.) The district court imposed a unified sentence of six years, with three years, for possession of a controlled substance, and a concurrent unified sentence of five years, with three years fixed, for major contraband. (R. pp.54-56.) The district court retained jurisdiction. (R., p.55.)

Ms. Horton filed a Notice of Appeal timely from the district court’s Judgment – Retained Jurisdiction. (R. pp.60-63.)

⁴ Ms. Horton had also asserted the officer could not have seen the expired registration in the time between turning and activating his lights. (*See* Tr. p.51, L.20 – p.52, L.21.) The district court found the officer could have perceived the expired registration in that time. (*See* Tr. p.57, L.19 – p.58, L.10.)

ISSUE

Did the district court err when it denied Ms. Horton's motion to suppress, because the traffic stop violated her constitutional right to be free from unreasonable searches and seizures?

ARGUMENT

The District Court Erred When It Denied Ms. Horton's Motion To Suppress, Because The Traffic Stop Was Not Justified By Reasonable Suspicion And Therefore Violated Her Constitutional Right To Be Free From Unreasonable Searches And Seizures

A. Introduction

Ms. Horton asserts the district court erred when it denied her motion to suppress. The traffic stop was not justified by reasonable suspicion and therefore violated her constitutional right to be free from unreasonable searches and seizures.

The district court determined Trooper Green “had reasonable articulable suspicion in perceiving the expired tabs and conducting the stop” (Tr. p.58, Ls.18-21.) However, the officer did not have reasonable suspicion to justify the traffic stop, because the expired Washington State registration did not violate I.C. §§ 49-430 or 49-456. As Ms. Horton asserted before the district court (*see* Tr. p.46, L.2 – p.47, L.24), the definitions of the terms used in sections 49-430 and 49-456 mean the statutes do not apply to vehicles registered outside Idaho. By revising the statutes to cover vehicles registered outside Idaho, the district court violated the rule of statutory interpretation that prohibits revising an unambiguous statute because it would produce absurd results.

Because the officer did not have reasonable suspicion of a violation of sections 49-430 or 49-456, the officer's traffic stop of Ms. Horton was not justified. The traffic stop was unlawful and violated her constitutional right to be free from unreasonable searches and seizures. Thus, the district court erred when it denied Ms. Horton's motion to suppress.

B. Standard Of Review

The standard of review for a motion to suppress is bifurcated. An appellate court defers to the trial court's findings of fact unless the findings are clearly erroneous, and freely reviews the trial court's application of constitutional principles to the facts as found. *State v. Hankey*, 134 Idaho 844, 846 (2000).

The interpretation of a statute is a question of law over which an appellate court exercises free review. *Stout v. Key Training Corp.*, 144 Idaho 195, 196 (2007).

C. The Officer Did Not Have Reasonable Suspicion To Justify The Traffic Stop

Ms. Horton asserts the officer did not have reasonable suspicion to justify the traffic stop. The Fourth Amendment to the United States Constitution and Article I, § 17 of the Idaho Constitution prohibit unreasonable searches and seizures. *Halen v. State*, 136 Idaho 829, 833 (2002). "Evidence obtained in violation of the [Fourth Amendment] generally may not be used as evidence against the victim of the illegal government action." *State v. Bishop*, 146 Idaho 804, 810-11 (2009). "This rule, known as the exclusionary rule, applies to evidence obtained directly from the illegal government action and to evidence discovered through the exploitation of the original illegality, or the fruit of the poisonous tree." *Id.* at 811. Similarly, evidence obtained in violation of Article I, § 17 is generally not admissible under Idaho's independent exclusionary rule. *See State v. Koivu*, 152 Idaho 511 (2012).

"Any warrantless search or seizure of a citizen is presumptively unreasonable unless it falls within certain specific and well-delineated exceptions." *Halen*, 136 Idaho at 833 (citing *Schmerber v. California*, 384 U.S. 757, 767 (1966)). "When a warrantless search or seizure is challenged by a defendant, the State bears the burden to show that a recognized exception to the warrant requirement is applicable." *Id.*

“Traffic stops constitute seizures under the Fourth Amendment.” *State v. Henage*, 143 Idaho 655, 658 (2007). Because traffic stops are limited in scope and duration, they are analogous to an investigative detention and analyzed under the principles set forth in *Terry v. Ohio*, 392 U.S. 1 (1968). *Delaware v. Prouse*, 440 U.S. 648, 653 (1979). Thus, a traffic stop is permissible “when justified by an officer’s reasonable articulable suspicion that a person has committed, or is about to commit, a crime.” See *Bishop*, 146 Idaho at 811. “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 at or before the time of the stop.” *Id.*

1. The Expired Washington Registration Did Not Violate Sections 49-430 Or 49-456

Ms. Horton asserts the officer did not have reasonable suspicion to justify the traffic stop, because the expired Washington registration did not violate sections 49-430 or 49-456. “The seizure of a vehicle’s occupants in order to investigate a traffic violation is a ‘reasonable seizure’ under the Fourth Amendment so long as the seizing officer had reasonable suspicion that a violation had occurred.” *State v. Linze*, 161 Idaho 605, 608 (2016) (quoting *Rodriguez v. United States*, 135 S. Ct. 1609, 1614 (2015)). Here, the State offered two justifications for the traffic stop, namely that Ms. Horton’s car was in violation of sections 49-430 or 49-456. (See Tr. p.44, Ls.10-22.)

The district court determined an out-of-state vehicle with expired registration “would indicate a violation . . . of Idaho law, whether it’s found in Idaho Code Section 49-430 or 49-456 or some other code section that we haven’t discussed.” (Tr. p.57, Ls.9-12.) Further, the district court determined, “[i]t is required that vehicles operating in Idaho have current registration, and I

think that any law enforcement officer would have reasonable, articulable suspicion for conducting a traffic stop when they perceive a vehicle with expired registration tabs.” (Tr. p.57, Ls.13-18.)

Ms. Horton asserts the definitions of the terms used in sections 49-430 and 49-456 mean those statutes do not apply to vehicles registered outside Idaho. The Idaho Supreme Court has held, “[t]he interpretation of a statute must begin with the literal words of the statute; those words must be given their plain, usual, and ordinary meaning; and the statute must be construed as a whole.” *Verska v. St. Alphonsus Reg’l Med. Ctr.*, 151 Idaho 889, 893 (2011) (internal quotation marks omitted). “If the statute is not ambiguous, this Court does not construe it, but simply follows the law as written.” *Id.* (internal quotation marks omitted). “A statute is ambiguous where the language is capable of more than one reasonable construction.” *Id.* at 896 (internal quotation marks omitted).

The *Verska* Court also held, “we have never revised or voided an unambiguous statute on the ground that it is patently absurd or would produce absurd results when construed as written, and we do not have the authority to do so.” *Id.* “The public policy of legislative enactments cannot be questioned by the courts and avoided simply because the courts might not agree with the public policy so announced.” *Id.* (internal quotation marks omitted). “If the statute as written is socially or otherwise unsound, the power to correct it is legislative, not judicial.” *Id.* at 893 (internal quotation marks omitted).

More recently, the Idaho Supreme Court has reaffirmed that “[l]egislative definitions of terms included within a statute control and dictate the meaning of those terms as used in the statute.” *Mayer v. TPC Holdings, Inc.*, 160 Idaho 223, 226 (2016) (quoting *State v. Yzaguirre*, 144 Idaho 471, 477 (2007)) (internal quotation marks omitted). As Ms. Horton asserted before

the district court (*see* Tr. p.46, Ls.3-16), the 100s section of Title 49 of the Idaho Code defines the terms used in sections 49-430 and 49-456. *See* I.C. § 49-101 (“Words and phrases used in this title are defined in sections 49-102 through 49-127, Idaho Code.”). “Registration” means “the registration certificate or certificates and license plate or plates issued *under the laws of this state* pertaining to the registration of vehicles.” I.C. § 49-119(9) (emphasis added).

The above definition of “registration” controls and dictates the meaning of that term as used in sections 49-430 and 49-456. *See Mayer*, 160 Idaho at 226. Section 49-430, titled: “Registration to be renewed,” provides that “[r]eregistration of vehicles shall be accomplished annually or by registration period in the same manner as the original registration and upon the payment of the required fee. The director may extend this date as to individuals, counties or the state for not the exceed forty-five (45) days for good cause shown.” I.C. § 49-430(1).

Section 49-456, titled: “Violations of registration provisions,” makes it unlawful for any person “[t]o operate or for the owner to permit the operation upon a highway of any motor vehicle, trailer or semitrailer which is not registered and which does not have attached and displayed the license plates assigned to it for the current registration year, subject to the exemptions allowed in sections 49-426, 49-431 and 49-432, Idaho Code.” I.C. § 49-456(1).

Thus, because the Idaho Legislature specifically defined “registration” to mean “the registration certificate or certificates and license plate or plates issued under the laws of this state pertaining to the registration of vehicles,” I.C. § 49-119(9), sections 49-430 and 49-456 only apply to vehicles registered under the laws of this state. *See Mayer*, 160 Idaho at 226. The statutes do not apply to a vehicle registered outside Idaho, such as Ms. Horton’s car with its Washington license plate, because an out-of-state vehicle would not have registration certificates or license plates issued under the laws of this state. The expired Washington registration did not

violate sections 49-430 or 49-456. Thus, the officer did not have reasonable suspicion of a violation of those statutes.

2. The District Court Violated The Rule Of Statutory Interpretation That Prohibits Revising An Unambiguous Statute Because It Would Produce Absurd Results

Ms. Horton asserts the district court violated the rule of statutory interpretation that prohibits revising an unambiguous statute because it would produce absurd results. Rather than follow the unambiguous language of sections 49-430 and 49-456 as written, the district court construed the statutes to cover vehicles registered outside Idaho. (*See* Tr. p.57, Ls.9-18.) The district court revised the statutes after stating, “I think it is absurd to believe or to accept the notion that law enforcement officers in Idaho cannot stop an out-of-state vehicle with expired registration.” (Tr. p.57, Ls.6-9.)

Thus, the district court violated the rule of statutory interpretation that prohibits revising an unambiguous statute because it would produce absurd results. As discussed above, the Idaho Supreme Court in *Verska* held, “we have never revised or voided an unambiguous statute on the ground that it is patently absurd or would produce absurd results when construed as written, and we do not have the authority to do so.” *Verska*, 151 Idaho at 896. “If the statute as written is socially or otherwise unsound, the power to correct it is legislative, not judicial.”⁵ *Id.* at 893.

⁵ The Idaho Legislature could enact a law requiring out-of-state vehicles to have proper registration in their state of origin. For example, Arkansas, the state where the car in *Morgan* was registered, *see* Brief of Appellant at 3, 9, *State v. Morgan*, 154 Idaho 109 (2013) (No 38305), 2011 WL 3471424 at *3, 9, has a statute allowing vehicles belonging to nonresidents of the state to operate in Arkansas, if the owner has complied with all the laws of the state in which the owner resides with respect to vehicle registration and the display of registration numbers. *See* Ark. Code. Ann. §27-14-704(a). Washington State law provides that its statutes relating to the registration of vehicles and display of license plates and registration certificates do not apply to vehicles owned by nonresidents, if the owner has complied with the law requiring the registration of vehicles in the name of the owners in force in the state of

The district court here did not have the authority to revise 49-430 and 49-456 as written to avoid absurd results.

In sum, the district court erred when it denied Ms. Horton's motion to suppress. Sections 49-430 and 49-456 do not apply to vehicles registered outside Idaho, such as Ms. Horton's car. The officer did not have reasonable suspicion of a violation of sections 49-430 or 49-456, or of any other violation. Thus, the officer's traffic stop of Ms. Horton was not justified and unlawful. *See Bishop*, 146 Idaho at 811. The evidence obtained as a result of the unlawful traffic stop, in violation of Ms. Horton's constitutional right to be free from unreasonable searches and seizures, may not be used against her. *See id.* at 810-11; *Koivu*, 152 Idaho 511. The district court's order denying the motion to suppress should be reversed.

CONCLUSION

For the above reasons, Ms. Horton respectfully requests that this Court vacate the district court's order of judgment and commitment, reverse the order which denied her motion to suppress, and remand the case to the district court for further proceedings.

DATED this 14th day of March, 2018.

_____/s/_____
BEN P. MCGREEVY
Deputy State Appellate Public Defender

residence, and the license plate is displayed on the vehicle substantially as required in Washington. *See Wash. Rev. Code* § 46.16A.160(1)(a) & (b).

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 14th day of March, 2018, I served a true and correct copy of the foregoing APPELLANT'S BRIEF, by causing to be placed a copy thereof in the U.S. Mail, addressed to:

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CYNTHIA K C MEYER
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E-MAILED BRIEF

_____/s/_____
EVAN A. SMITH
Administrative Assistant

BPM/eas