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IN THE SUPREME COURT OF THE STATE OF IDAHO

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

REPLY 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

ERIC D. FREDERICKSEN
State Appellate Public Defender
I.S.B. #6555

BEN P. MCGREEVY
Deputy State Appellate Public Defender
I.S.B. #8712
322 E. Front Street, Suite 570
Boise, Idaho 83702
Phone: (208) 334-2712
Fax: (208) 334-2985
E-mail: documents@sapd.state.id.us

**ATTORNEYS FOR
DEFENDANT-APPELLANT**

KENNETH K. JORGENSEN
Deputy Attorney General
Criminal Law Division
P.O. Box 83720
Boise, Idaho 83720-0010
(208) 334-4534

**ATTORNEY FOR
PLAINTIFF-RESPONDENT**

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STATEMENT OF THE CASE

Nature of the Case

In this appeal, Josette Marie Horton asserted 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.

The State, in its Respondent's Brief, argued the district court did not err when it denied Ms. Horton's motion to suppress, because her expired out-of-state registration provided reasonable, articulable suspicion for the stop. (*See* Resp. Br., pp.5-14.) The State contended Ms. Horton was required to comply with the Idaho motor vehicle statutes on renewal of registration and on violations of registration provisions. (*See* Resp. Br., p.12.) This Reply Brief is necessary to show that the State's argument improperly revises the statutes at issue by reading the legislative definition of "registration" out of the statutes.

Statement of the Facts and Course of Proceedings

The statement of the facts and course of proceedings were previously articulated in Ms. Horton's Appellant's Brief. They need not be repeated in this Reply Brief, but are incorporated herein by reference thereto.

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 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. 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. 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 expired Washington registration did not violate sections 49-430 or 49-456. The term "registration," as used in sections 49-430 and 49-456, 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). Thus, those statutes only apply to vehicles registered

under the laws of this state. *See Mayer v. TPC Holdings, Inc.*, 160 Idaho 223, 226 (2016). 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. By revising the unambiguous language of the statutes to cover vehicles registered outside Idaho (*see* Tr. p.57, Ls.6-18), the district court violated the rule of statutory interpretation that prohibits revising an unambiguous statute because it would produce absurd results. *See Verska v. St. Alphonsus Reg’l Med. Ctr.*, 151 Idaho 889, 893, 896 (2011).

Similarly, the State’s argument improperly revises the language of sections 49-430 and 49-456. The State contends the statutes apply to vehicles registered outside Idaho, because “Idaho Code § 49-456 and 49-430, and the entire Motor Vehicle Code, apply to all drivers in Idaho, including non-residents.” (*See* Resp. Br., p.12 (citing I.C. §§ 49-1408(1) & 49-2420).)¹ Thus, the State argues that Ms. Horton, “like all operators of vehicles in Idaho was required to comply with § 49-456 and § 49-430, both of which require[] current registration.” (Resp. Br., p.12.)

The State’s argument improperly revises sections 49-430 and 49-456 by reading the legislative definition of “registration” out of the statutes. The Idaho Legislature has defined “registration” as “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

¹ Section 49-1408(1) provides: “All of the provisions of this title apply both to residents and nonresidents of Idaho, except the special provisions in this section which shall govern misdemeanor violations in respect to nonresidents under the circumstances stated.” I.C. § 49-1408(1).

Section 49-2420 provides: “Subject to compliance with the motor vehicle laws of Idaho, nonresident owners, operators of, and persons riding in motor vehicles hereby are granted the privilege of using the highways of Idaho.” I.C. § 49-2420.

added). This legislative definition controls and dictates the meaning of the term “registration” as used in sections 49-430 and 49-456. *See Mayer*, 160 Idaho at 226.

For example, section 49-430 provides, “[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.” I.C. § 49-430(1). Using the legislative definition of “registration,” the “original registration” referred to in this statute constitutes the registration certificates and license plates issued under the laws of this state. *See* I.C. § § 49-119(9). Similarly, section 49-456 is titled: “Violations of registration provisions.” I.C. § 49-456. Based on the legislative definition of “registration,” the statute therefore covers violations of the provisions governing registration certificates and license plates issued under the laws of this state. *See* I.C. § § 49-119(9). Further, Chapter 4 of Title 49 of the Idaho Code, where sections 49-430 and 49-456 are located, is titled “Motor Vehicle Registration.” This chapter title must also use the legislative definition of “registration.” *See Mayer*, 160 Idaho at 226.

The State has not explained how a vehicle registered outside Idaho, such as Ms. Horton’s vehicle with its Washington license plate, could have registration certificates and license plates issued under the laws of this state pertaining to the registration of vehicles. By arguing sections 49-430 and 49-456 apply to vehicles registered outside Idaho, the State reads the legislative definition of “registration” out of the statutes. This is improper, because the definition of “registration” the Idaho Legislature provided in section 49-119(9) controls the meaning of that term within the statutes. *See Mayer*, 160 Idaho at 226.

State v. Morgan, 154 Idaho 109 (2013), also militates against the State’s argument that sections 49-430 and 49-456 apply to vehicles registered outside Idaho. I.C. § 49-428, one of the

statutes at issue in *Morgan*, *see id.* at 110-12, provides that “[l]icense plates assigned to a motor vehicle shall be attached, one (1) in the front and the other in the rear” I.C. § 49-428(1).

The officer in *Morgan* stopped the defendant’s vehicle after seeing the defendant’s vehicle did not have a front license plate, believing that was a violation of section 49-428. *Morgan*, 154 Idaho at 110. In the defendant’s appeal from the denial of his motion to suppress, the State conceded “that the district court erred in its conclusion that the officer had a reasonable articulable suspicion that Morgan had violated” section 49-428. *Id.* at 111. 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.” *Id.* at 112. The officer testified he saw the rear license plate prior to the stop, the plate was not from Idaho, and at that point there was no reason to pull the vehicle over for a license plate violation. *See id.* Thus, the *Morgan* Court concluded that, “[i]n view of Idaho law and this testimony, the district court erred in its determination that the officer had a reasonable suspicion to believe that a violation of I.C. § 49-428 had occurred.” *Id.*

While the State argues that sections 49-430 and 49-456 apply here because the entire Motor Vehicle Code applies to all drivers in Idaho (*see Resp. Br.*, p.12), *Morgan* shows that some parts of the Idaho motor vehicle statutes do not apply to vehicles registered outside Idaho. Notably, the Idaho Supreme Court in *Morgan* did not hold that sections 49-1408(1) and 49-2420 meant section 49-428 required vehicles registered in other states to display both front and rear license plates. *See Morgan*, 154 Idaho at 112. The *Morgan* Court instead held section 49-428 only applied to vehicles “registered in Idaho.” *See id.* Extending the logic of *Morgan* to the instant case, sections 49-1408(1) and 49-2420 do not mean sections 49-430 and 49-456 apply to

vehicles registered in other states.² Thanks to the legislative definition of “registration,” as used in sections 49-430 and 49-456, those sections only require vehicles registered in Idaho to maintain current registration. *See* I.C. § 49-119(9).

If the Idaho Legislature had intended to make the operation of a vehicle with expired out-of-state registration a violation of the Idaho motor vehicle statutes, it could have enacted a separate statute expressly requiring vehicles from outside Idaho to have current registration in their state of origin. *See, e.g.*, Ark. Code Ann. § 27-14-1704(a); Wash. Rev. Code § 46.16A.160(1)(a) & (b). However, the Idaho Legislature’s current definition of “registration” precludes interpreting sections 49-430 and 49-456 to that end. By reading the legislative definition of “registration” out of the statutes, the State’s argument improperly revises sections 49-430 and 49-456. *See Verska*, 151 Idaho at 893; *Mayer*, 160 Idaho at 226.

The district court erred when it denied Ms. Horton’s motion to suppress. Despite the State’s arguments to the contrary, 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

² *Morgan* also recognizes that other states may have different requirements for vehicle licensing and registration. While Idaho requires the display of both front and rear license plates, other states may require only the display of a rear license plate. *See* Brief of Appellant at 9, *State v. Morgan*, 154 Idaho 109 (2013) (No. 38305), 2011 WL 3471424 at *9 (“Mr. Morgan’s vehicle was not licensed through Idaho but through the State of Arkansas, where a license plate is only required to be attached to the rear of the vehicle when one plate is issued, and thus Mr. Morgan’s SUV was not being operated in violation of § 49-428.”).

Likewise, while Idaho requires vehicles to maintain current registration at all times, some other states have a grace period permitting vehicles to operate with expired tabs for a limited time. *See, e.g.*, Colo. Rev. Stat. § 42-3-114 (“Every vehicle registration under this article shall expire on the last day of the month at the end of each twelve-month registration period and shall be renewed, upon application by the owner, the payment of the fees required by law, and in accordance with section 42-3-113(3), not later than the last day of the month following the day of the month following the date of expiration.”); Me. Rev. Stat. tit. 29-A, § 351(2) (“The owner or operator of a vehicle stopped by a law enforcement officer and having a registration that has expired within the last 30 days must be issued a warning, rather than a summons, in a form designated by the Chief of the State Police.”).

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. 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. The district court's order denying the motion to suppress should be reversed.³

CONCLUSION

For the above reasons, as well as the reasons contained in the Appellant's Brief, 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 17th day of July, 2018.

/s/ Ben P. McGreevy
BEN P. MCGREEVY
Deputy State Appellate Public Defender

³ Regarding the basis for Ms. Horton's motion to suppress, the State argues, "[t]he other potential reasons for [the] stop (including speeding and attempted elud[ing]) were not challenged below. Thus, the scope of this appeal is limited to whether an expired Washington registration provides reasonable articulable suspicion for the stop." (Resp. Br., p.8) The State then contends, "in the event the order denying [Ms.] Horton's motion to suppress is reversed, [Ms.] Horton can determine, on remand, whether to challenge the other [bases] for the stop in front of the district court." (Resp. Br., p.8.)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of July, 2018, I served a true and correct copy of the foregoing APPELLANT'S REPLY BRIEF, electronically as follows to:

KENNETH K JORGENSEN
DEPUTY ATTORNEY GENERAL
CRIMINAL DIVISION
Delivered via e-mail to: ecf@ag.idaho.gov

/s/ Evan A. Smith
EVAN A. SMITH
Administrative Assistant

BPM/eas