Traffic Case Law Update
July 1, 2019 – November 25, 2020

Review of Idaho Case Law to include: DUI, Traffic Related Cases, Search & Seizure, Miranda, and More ...

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REFERENCE MATERIALS:

Idaho Search & Seizure Manual – 2020 Edition Copyright IPAA.

****This document includes brief summaries of legal cases and new or updated Idaho statutes. This is not an exhaustive list of all appellate cases during the listed time frame, nor of all new Idaho statutes. The target audience of this handout is law enforcement officers investigating traffic crimes. Therefore, the topics addressed are impaired driving, reasonable suspicion for a traffic stop, 4th Amendment (search & seizure) and 5th Amendment (Miranda). Issues not applicable to law enforcement officers are generally not covered in this legal update.***

*****Any views expressed in this handout are the author's and do not necessarily reflect the views of the Idaho Prosecuting Attorneys Association. Please directly consult and update the authority cited in the outline, and/or contact your local prosecutor with any questions. This handout is not intended to constitute legal advice on specific cases. If you should have any questions regarding case law and/or necessary procedures you need to perform, you should immediately contact your direct supervisor and/or contact the legal advisor for your agency.***

I. IMPAIRED DRIVING CASES

STATE v. WINKLER, --- Idaho --- (2020)

FACTS: Winkler received a pardon by the Idaho Commission of Pardons and Parole for his 2006 felony DUI. Winkler was charged with a new DUI on January 2019 and the state used the prior 2006 felony DUI to enhance the current DUI to a felony.

ISSUE(S): (1) Can a prior felony DUI be used for enhancement purposes on a new DUI violation when the prior DUI offense was pardoned by the Idaho Commission of Pardons and Parole?

HOLDING(S): (1) NO. The effects of a prior DUI conviction are removed by a pardon under Article 4, Section 7 of the Idaho Constitution and may not be used for the purpose of enhancing a pending DUI charge.

ANALYSIS: The Supreme Court admitted the statute was ambiguous and could be interpreted two different ways. The Supreme Court chose to conclude that a pardon is intended to spare an individual from punishment for his crime and remove any other effects that his conviction may have carried. The pardon releases the punishment and blots out the existence of guilt, so that in the eye of the law the offender is as innocent as if he had never committed the offense.

NOTE: The statute providing the Commission's pardon power (I.C. 20-240) was amended effective July 1, 2020, which was after this case. However, in footnote 1, the Idaho Supreme Court explains that the result in this case would still be the same. The Commission continues to have power to grant pardons in DUI cases.

STATE v. POOL, 166 Idaho 238 (2020)

FACTS: Pool caused a multi-vehicle crash when he failed to negotiate a turn. He was not wearing a seatbelt and as a result he sustained a head injury and was unconscious when the officer arrived. Pool's son, who was a passenger in the car, said his dad was not staying in his lane. Pool regained consciousness but was very lethargic and presenting symptoms similar to an impaired driver. A baggy with 7 prescription bottles were recovered from Pool's vehicle. The officer conducted the HGN test and ruled out alcohol because HGN was not present. At the hospital, while the phlebotomist was taking blood samples for medical purposes, the phlebotomist asked the officer if he would like one for evidence. The officer replied, "Yes, of course." Pool did not resist, but also did not appear to understand what was happening. Ten minutes after the blood draw, the officer read Pool the ALS form and asked Pool for verbal consent. Pool did not object to the blood draw. The district court suppressed the results holding exigent circumstances were required for a warrantless blood draw.

ISSUE(S): (1) Whether the State can rely wholly on implied consent as a basis for a warrantless blood draw when the defendant has not expressly revoked consent?

HOLDING(S): (1) **YES.** Absent evidence that a defendant has affirmatively withdrawn his or her consent, implied consent for warrantless blood draws remains a valid exception to the 4th Amendment requirement pursuant to I.C. 18-8002. The district court erred in requiring exigency.

REASONING: (1) Implied consent and the post-McNeely case law in Idaho remain valid. When a person drives on an Idaho roadway that person has given his or her implied consent to an evidentiary test. Any time a person drives on an Idaho road, he or she is presumed to have done so voluntarily. This consent may be revoked, but officers are not required to inform defendants of their right to refuse or revoke consent.

STATE v. HERNANDEZ, --- Idaho --- (2020)

FACTS: Hernandez was charged and found guilty by a jury of Felony DUI. She contends one of the two certified judgments of her prior convictions contained insufficient identifying information to prove her guilt. The birthdate was off by 3 days and it included a different street address.

ISSUE(S): (1) Was the identifying information contained in Exhibit 4 (a certified judgement) sufficient to prove Hernandez was the person named therein?

HOLDING(S): (1) YES. The information was sufficient as the totality if the evidence supports the jury's finding that Hernandez is the individual identified in Exhibit 4.

ANALYSIS: (1) The information included her name, general age and county of conviction. (2) Although Exhibit 4 only included the middle initial of K rather than full middle name, the jury could consider the nearly identical names. (3) The jury could consider the fact that Exhibit 4 was for the same offense as the current charge and the conviction in Exhibit 5, which Hernandez conceded was hers. (4) The signatures on both Exhibit 4 and Exhibit 5 could be compared by jurors; and (5) There were handwritten notes in Exhibit 4 that referenced Exhibit 5 imposing a probation period that ran concurrently with each other.

II. REASONABLE SUSPICION FOR THE TRAFFIC STOP

KANSAS v. GLOVER, 140 S.Ct. 1183 (2020)

FACTS: In this case, both parties stipulated to the facts. In summary, an officer minding his own business, like cops do, ran the license plate of a pickup truck. The officer did not observe any traffic infractions, not did he attempt to identify the driver of the truck. Based solely on the information that the registered owner of the truck was revoked, the officer initiated a traffic stop. The Kansas Supreme Court held the officer did not have reasonable suspicion that the registered owner was likely the primary driver of the vehicle. The U.S. Supreme Court reversed in an 8-1 decision, but warned the scope of this holding is narrow.

ISSUE(S): (1) Whether a police officer violates the 4th Amendment by initiating a traffic stop after running a vehicle's license plate and learning the registered owner has a revoked driver's license?

HOLDING(S): (1) No. The U.S. Supreme Court said this was a narrow ruling and stated, "We hold that when the officer lacks information negating an inference that the owner is the driver of the vehicle, the stop is reasonable." In this case, the court found that before initiating the stop the deputy (1) observed an individual operating a pickup truck; (2) knew the registered owner of the truck had a revoked license and (3) the model of the truck matched the observed vehicle. The Court said from these 3 facts, the officer drew a commonsense inference that Glover was likely the driver of the vehicle, which provided more than reasonable suspicion to initiate the stop. The fact a registered owner of a vehicle is not always the driver of the vehicle does not negate the officer's inference is this case.

ANALYSIS: The Supreme Court said the scope of this holding is narrow. The reasonable suspicion standard "takes into account the totality of the circumstances." The presence of additional facts might dispel reasonable suspicion, but here the deputy possessed no information sufficient to rebut the reasonable inference that Glover was driving his own truck. "For example, if an officer knows that the registered owner of the vehicle is in his mid-sixties but observes that the driver is in her mid-twenties, then the totality of the circumstances would not raise a suspicion that the particular individual being stopped is engaged in wrongdoing.

STATE v. BONNER, 167 Idaho 88 (2020)

FACTS: Bonner caught an officer's attention when he did not slow for a red traffic light, but the light turned green before Bonner entered the intersection. The officer began to follow Bonner also noticing the Jetta he was driving had a temporary registration in the back window. Bonner pulled into a hospital parking lot and parked near the outpatient surgery center. The officer suspected Bonner was trying

to avoid him so the officer pulled into the parking lot and watched. Bonner attempted to enter the outpatient buildings, which were dark and appeared closed. Instead of returning to his car, Bonner walked to the side of the building.

The officer approached Bonner and asked, “What are you doing?” He then asked for an ID. Bonner gave him the ID, and the Officer asked “Is that your ride?” Bonner did not answer and at that point Bonner was ordered to sit on the curb.

The end of the story is Bonner’s license was suspended, he was on parole and gave a breath test with a BrAC of 0.092. The State made various arguments on appeal after the district court suppressed the evidence, but the Supreme Court found the following issue determinative and did not decide the other issues raised.

ISSUE(S): (1) Whether the officer had reasonable suspicion when he was ordered to sit on the curb?

HOLDING(S): (1) YES. The Idaho Supreme Court said while “we acknowledge that this is a very close question” the Court concluded the totality of the circumstances supports the conclusion the officer articulated a reasonable basis for suspecting illegal conduct was taking place.

ANALYSIS: The evidence the officer testified to that formed the basis for his suspicions included the following observations:

- After the officer began to follow him, Bonner began “looking around” as he drove;
- Bonner’s car had a temporary registration, which the officer could not see well enough to determine whether it was valid;
- Bonner then “moved lanes from where we were at all the way to the right lane” and turned into the St. Luke’s hospital complex;
- Bonner pulled into the parking lot and parked “a distance away” from an outpatient surgery building, and “even further away from the hospital itself,” even though there were spots “close to the building” because “there were no other vehicles in the parking lot”;
- The outpatient surgery center appeared closed because of the lack of cars in the parking lot and the low light levels in the building;
- Bonner approached the outpatient surgery building and tried, but failed, to get in;
- Bonner then walked away in the opposite direction of both the building and his car, as if he was abandoning both the vehicle and his purpose for being there.

Finally, the officer explained based on his training and experience he found this behavior to be suspicious because the business was closed, and when he contacted the driver there was “evasive kind of mannerism behavior” that the officer suspected maybe the vehicle was stolen.

STATE v. COOK, 165 Idaho 305 (2019)

FACTS: On a dark and stormy night, an officer stopped Cook's vehicle for not having a front or back license plate. However, as Cook's vehicle was being stopped the officer saw a temporary registration in the window, but was not able to read it, until he wiped off a heavy condensation that had accumulated on the outside of the window. The temporary registration was valid. The officer continued to the driver's window and after smelling the odor of marijuana and Cook's admissions of her "friends" smoking marijuana in the car earlier, the officer searched and found a variety of illegal drugs and paraphernalia.

ISSUE(S): (1) Whether I.C. 49-432(4) is unconstitutionally vague because it does not give fair notice that an uncontrollable weather condition will render an otherwise valid and cause the driver to violate a traffic law?

HOLDING(S): (1) YES. I.C. 49-432(4) is unconstitutionally vague as applied to the facts of Cook's case because it failed to inform her of what she needed to do to comply with the statute. The Court compared this statute to the front license plate statute which requires the front plate to be plainly readable from a distance of 75 feet during daylight.

ANALYSIS: In short, an officer may only stop a vehicle if they can **clearly** determine there are no license plates and no temporary permit **or** if the permit is obviously invalid, fictitious or expired prior to the stop.

Editor's Note: The Court does not provide any direction on what an officer should do when they stop a vehicle for not having plates or a temporary registration, but then see the permit when walking up to the vehicle. The Court implies the officer should terminate the stop as soon as they see the temporary permit. This would be odd to the driver, but it appears likely the evidence would be suppressed if the officer observes anything illegal by continuing to make contact with the driver.

Again, an officer may stop a car for violation of I.C. 49-428 when they do not see a license plate or temporary registration. However, if the officer is unable to determine whether or not a person's temporary permit is valid or present because of snow, dirt or other obstruction, or if difficult to see because of legal window tint, the officer cannot stop the vehicle.

STATE v. DEVAN, --- Idaho --- (Ct.App.2020)

FACTS: An officer, minding his own business, like cops do, observed a vehicle driving with both passenger-side tires across the solid white fog line on an unobstructed highway for 3 to 5 seconds, travelling about 100 yards. The officer conducted a traffic stop stating he was concerned for the safety of any pedestrian or cyclist potentially traveling on the shoulder. Devan was subsequently arrested

for Felony DUI. The district court found there was reasonable suspicion of either a traffic violation or criminal activity (i.e. DUI) to conduct a traffic stop. Devan appealed arguing previous Idaho Supreme Court cases in Neal and Fuller held that his driving actions were insufficient to support reasonable suspicion for a traffic offense. The state argued Devan committed multiple traffic offenses to include 49-637(1), 49-630(1), 49-1401(3) and reasonable suspicion of DUI. The Court of Appeals focused solely on 49-637(1) finding it resolved the argument.

ISSUE(S): (1) Whether the officer had reasonable suspicion to stop the driver for failing to drive as nearly as practicable within a single lane in violation of I.C. 49-637(1)?

HOLDING(S): (1) YES. A vehicle inexplicably straddling the fog line for approximately 100 yards and encroaching on the shoulder of a roadway used by pedestrians and cyclists gives rise to reasonable suspicion that a driver has violated I.C. 49-637(1).

ANALYSIS: The circumstances in this case are distinguished from Neal and Fuller. In Neal, the Court held that driving onto but not across the fog line did not violate 49-637. In Fuller, the Court held that because the fog line is not a lane barrier, an "isolated incident of temporarily crossing" the fog line did not violate 49-637. But Fuller, did cite a number of court decisions where driving onto or across the fog line may be considered when evaluating whether the overall pattern of driving would give rise to reasonable suspicion that 49-637(1) had been violated. The Court of Appeals held this is one of those of those cases. The conduct is distinguishable from an isolated or temporary incident at issue in Neal and Fuller.

STATE v. BYRUM, --- Idaho --- (Ct.App.2020)

FACTS: An anonymous call was made regarding a vehicle failing to maintain its lane on the interstate. An officer found a vehicle matching the description and followed the vehicle for two miles and witnessed the vehicle weave within its lane on two occasions where the driver was making "sharp turns" to stay in its lane. A traffic stop occurred and a subsequent DUI arrest was made (BrAC .107/.096).

ISSUE(S): (1) Whether the officer had reasonable suspicion to execute the traffic stop?

HOLDING(S): (1) YES. The reliability of the anonymous tipster carried sufficient indicia of reliability. In addition, the officer was able to observe the same driving pattern as described by the tipster.

ANALYSIS: An anonymous tip, standing alone, is generally not sufficient to justify a stop because an anonymous tip seldom demonstrates the informant's basis of knowledge or veracity. However, when the information from an anonymous tip

bears sufficient indicia of reliability, or is corroborated by independent police observations, it may provide justification for a stop. In this case the tipster revealed the basis of his or her knowledge of Byrum's driving; the location of the tipster was known because he/she was following Byrum, the information was based on first-hand observations while events were occurring, and the information was subject to immediate corroboration by the officer within one to two minutes, when he located the car in that area, and it matched the description and license plate. The officer was then able to observe the same driving pattern as described by the anonymous tipster.

STATE v. WILSON, --- Idaho --- (Ct.App.2020)

FACTS: A Jack-in-the-Box employee called police for a suspected intoxicated driver in the drive-through lane. The employee reported the occupants in the car were laughing and said they had alcohol in the car when the employee said it would be a 10- to15-minute wait for their food. The responding officer made contact with the occupants who reported they were just being rowdy. He observed 4 empty 32-ounce beer cans on the floor of the vehicle and could smell the odor of alcoholic beverages, but could not tell if the odor was coming from the driver or the occupants. The officer ordered Wilson to pull over to the side of the parking lot. Wilson complied and exited his vehicle and met the officer at the back of the car. The officer could then smell the odor of alcoholic beverages coming from Wilson's person and could see he had glassy eyes. A DUI investigation occurred which included a blood search warrant with a 0.192 BAC result. The district court suppressed the evidence finding the officer did not have reasonable suspicion to detain Wilson.

ISSUE(S): (1) Whether the officer had reasonable suspicion to detain the driver in the drive-through lane of fast food restaurant?

HOLDING(S): (1) YES. The officer had reasonable suspicion to detain Wilson in the drive-through lane based on the facts know to the officer at the time, which included the employee's report the occupants of Wilson's car had alcohol, the odor of alcohol emanating from the car, and the presence of empty beer cans.

ANALYSIS: Although perhaps any single one of the facts alone may have been inadequate to establish reasonable suspicion, when taken together, the facts established reasonable suspicion that all of the occupants may have been drinking. None of the facts ruled out the possibility that Wilson had consumed alcohol. The employee's identity was known, the tip was based on first-hand observations, and the officer was able to corroborate the tip within 5-10 minutes. The Court further explained that the general odor of alcohol emanating from a vehicle may be sufficient probable cause to search a vehicle for an open container. This seems to indicate that if an officer has probable cause to search, the officer certainly has met the lower burden reasonable suspicion to detain.

III. SEARCH & SEIZURE ISSUES

STATE v. PYLICAN, --- Idaho --- (2020)

FACTS: A deputy, minding his own business, like cops do, observed Pylican entering a storage facility after hours. The surrounding area had frequent reports of vehicle and residential burglaries. The deputy watched the storage facility for over 40 minutes, but did not observe Pylican engage in any criminal activity. Upon leaving the facility, the deputy followed Pylican and conducted a valid traffic stop for making a turn without signaling. During the traffic stop the deputy asked Pylican about her being in the storage facility after hours. Pylican said she entered before 10:00 PM, which the officer concluded was a lie. A K-9 officer arrived and the deputy spoke with that officer before taking any further action on the traffic infraction. Pylican and her passenger were ordered out of the vehicle for the K-9 search. Pylican argued about this order for about 2 minutes and asked to call her husband. The district court suppressed the evidence holding (1) the officer did not have reasonable suspicion to question Pylican about her presence in the storage facility, thereby extending the scope of the stop; and (2) the order to exit the vehicle for a K-9 sniff unconstitutionally extended the duration of the stop.

ISSUE(S): (1) Did the officer have reasonable suspicion to question Pylican regarding her presence in the storage facility? **(2)** Did the officer's order to exit the vehicle unconstitutionally extend the duration of the stop?

HOLDING(S): (1) YES. The deputy had reasonable suspicion to question Pylican about her presence in the storage facility. **(2) NO.** The order to exit the vehicle was a lawful request before the traffic stop was completed and the sniff occurred while the deputy was checking Pylican's information and questioning further about entering the storage facility.

ANALYSIS: (1) The Court found the deputy had reasonable suspicion because: (a) the deputy observed the defendant enter the storage facility after its posted hours and exit 35 minutes later; (b) the deputy had seen others fail in gaining access after-hours; (c) the area surrounding the storage facility had recently experienced an "unusually high number of calls" regarding property crimes; and (d) the deputy's belief Pylican was lying about being in the storage unit before 10:00 p.m. was objectively reasonable. (2) Ultimately, it is the lawfulness of the request that is determinative of whether there is an unlawful extension of the stop, and not the time spent arguing about the request. The Court found any extension was caused by Pylican questioning the order to exit the car and whether she could use a phone. The deputy had not yet completed the traffic stop when ordering the occupants from the vehicle, and because the K-9 search took place while the deputy continued the traffic stop, the stop was not impermissibly extended.

EDITOR'S NOTE: This is a 3-2 decision. The dissenting justices argued the purpose of the stop was to address a traffic violation and to investigate Pylican's

presence in the storage facility, not to conduct a drug investigation. Therefore, the dissent found the order to exit for the K-9 search required reasonable suspicion of a drug crime. Proceed with caution on this decision. The timing of the order to exit the vehicle was key to the majority and the reason for the order was key to the dissent.

STATE v. BLYTHE, 166 Idaho 713 (2020)

FACTS: Blythe was a passenger of a vehicle on a valid traffic stop. The officer minding his own business, like cops do, noticed a "tooter" (rolled-up dollar bill and roll of tinfoil) at Blythe's feet. Blythe was ordered out of the vehicle and frisked, but nothing of evidentiary value was recovered. He was ordered to stand near the back corner of the car and was told, "Like I said, you know you're not under arrest – nothing like that, right?" Meanwhile the driver admitted to 7 grams of marijuana in the car. The car was searched and under the passenger seat was more rolled up pieces of tin foil, with one containing what the deputy believed to be a usable amount of heroin. The deputies then discussed *Mirandizing* the driver and Blythe and concluded "we'll go from there." The driver was put in the back of the patrol car and told "You're not under arrest, alright?" Blythe was then told, "Do me a favor. Can you kick your shoes off for me?" Inside the shoes were two baggies of heroin. Blythe was then handcuffed and told he was under arrest. At hearings before the district court, the State argued the search of the shoes was justified under both consent and search incident to arrest. The district court rejected the consent argument, but determined the search was a valid search incident to arrest.

ISSUE(S): (1) Was the search of Blythe's shoes a valid search incident to arrest?

HOLDING(S): (1) NO. Because the search took place before the arrest occurred, and because neither rationale justifying a search incident to arrest was sufficiently present here, the search incident to arrest was not valid. Although the exact timing of the search and the arrest is not controlling, the exception may not be used to justify a search "where a totality of the circumstances demonstrated that an arrest was not going to occur" prior to the discovery of the evidence.

ANALYSIS: Searches that precede the arrest require careful scrutiny of the twin rationales of officer-safety and evidence preservation. First, the officer-safety rationale was not present because there was no reason to believe the deputies were exposed to so much danger that a search of defendant's shoes was warranted. Blythe was not restrained in the moments leading to the search and the conversation between the deputies indicated there was no immediate plan to arrest Blythe. Second, up until the point of the search of the shoes, the deputies had only expressed their intent to take definitive action against the driver for possession of the marijuana. Because there was no impending arrest for Blythe at the time the shoes were searched, the preservation of evidence rationale was not sufficiently present.

STATE v. HANSEN, --- Idaho --- (2020)

FACTS: On a traffic stop, it was learned that Hansen was on felony probation. For a number of reasons, the trooper was suspicious and wanted to search the vehicle. During a conversation with Hansen, the trooper asked for consent to search the vehicle. Hansen declined to give consent, but admitted to having signed a 4th Amendment waiver per a probation agreement. The trooper attempted to contact Hansen's probation officer as well as an on-call probation officer with no success. He ultimately decided to search the vehicle. The district court suppressed the evidence reasoning Hansen had effectively revoked the consent given as a condition of his probation agreement.

ISSUE(S): (1) Whether Hansen expressly revoked the consent provided for in his probation agreement when he refused to provide consent to be searched during the traffic stop? (2) Was the officer's search reasonable under the language of the 4th Amendment waiver provision in the probation agreement?

HOLDING(S): (1) NO. A probationer may only revoke the consent given as a condition of probation at a hearing before the court that entered the order granting probation in the first place. **(2) YES.** The plain language of Hansen's waiver provision allowed for any "law enforcement officer" to search his "vehicle."

ANALYSIS: (1) While law enforcement officer may learn of the probationer's consent to be searched, and perform searches pursuant to that consent, they do not have the authority to revoke his probation. As a corollary, the probationer cannot unilaterally revoke one of the conditions of his probation when doing so would benefit him at the moment. He must seek to revoke or alter the condition the same way it was granted, via a court order. (2) Because the trooper is a "law enforcement officer" the search was conducted within the scope of consent provided by Hansen's probation agreement, and his consent was not revoked in a hearing before the court in which it was given, the search was reasonable under the 4th Amendment.

STATE v. PHIPPS, 166 Idaho 1 (2019)

FACTS: Parole officers from IDOC conducted a routine residence check on a parolee. Phipps was in the apartment at the time and was asked to take a seat in the living room. After ensuring no one else was in the apartment, the parole officers informed Phipps and the parolee that a drug dog would be brought in to aid in the search of the residence. The officer asked if there was anything in the apartment they should know about. Phipps confessed to having a meth pipe in the backpack she was wearing. The district court suppressed the evidence holding the detention of an occupant only applies when the search is conducted pursuant to a search warrant, not a routine parole compliance check.

ISSUE(S): Whether officers may lawfully detain all occupants of a home during a lawful probation or parole compliance search?

HOLDING(S): YES. Officers may temporarily detain all occupants of a home during a parole or probation compliance search.

ANALYSIS: The governmental interests apply with the same force to parole and probation searches as they do with searches pursuant to a search warrant. These are: (1) preventing flight; (2) minimizing the risk of harm to the officers; and (3) the orderly completion of the search. The Idaho Supreme Court found no meaningful difference between the detention of occupants present during the execution of a search warrant and the detention of occupants present during a routine parole or probation search. As long as the officers have probable cause to believe they are at the address where the parolee resides, they may detain all occupants while executing a valid parole/probation compliance check.

STATE v. GONZALES, 165 Idaho 667 (2019)

FACTS: Officer minding his own business, like cops do, recognized a woman from recent criminal investigations, including being suspected of firearm thefts. He asked to speak with her but she made it clear she did not want to talk with him and walked away. The officer walked over to her vehicle and shined his flashlight inside discovering Gonzales lying in a fetal position on the floor. The officer shined the flashlight on himself and Gonzales exited the car. He was nervous twitching, and when instructed to put his hands behind his back for a pat down, Gonzales ran away. The officer caught him and learned he was on probation. He was arrested on an agent's warrant and a later search at the jail led to discovery of methamphetamine.

ISSUE(S): (1) Did the officer have a reasonable suspicion to seize Gonzales at the vehicle?

HOLDING(S): (1) NO. None of the factors when taken alone or when taken together provided the officer reasonable suspicion to seize Gonzales. The officer never articulated what criminal suspicion he had of Gonzales' behavior, other than the fact Gonzales was perhaps hiding from the officer.

ANALYSIS: First, a dark area, late at night, is not sufficient basis for finding reasonable suspicion. Second, there was no evidence the parking lot was a high crime area. Even if it were, the car was parked between two open businesses. Third, the woman's decision not to speak with the officer cannot be considered when evaluating reasonable suspicion, because she has every right to refuse to speak with the officer. Four, the officer's familiarity with the woman's previous interactions with law enforcement is not sufficient to justify reasonable suspicion in regards to Gonzales. Finally, the Court held that while finding Gonzales laying

horizontal on the floor of the vehicle is suspicious, without more it cannot be sufficient basis on which an officer finds reasonable suspicion of criminal activity.

NOTE: The State argued the officer did not seize Gonzales until after he took flight, but the Court held the State had failed to argue this below and did not preserve the issue for appeal. The District Court had held Gonzales was briefly detained when the officer shined the light on himself to say he was a law enforcement officer.

STATE v. SESSIONS, 165 Idaho 658 (2019)

FACTS: Officers responded to an emergency call of a "man down" on a lawn. He could talk and move his head but could not move the rest of his body. Believing it was due to tainted marijuana, the officers were able to get the "man down" to reveal Sessions as the dealer. In consulting with other officers, a detective said a couple of other people were similarly hospitalized. A posse was formed, they saddled up and headed to Sessions' house. A woman answered the door and the smell of raw, burnt and burning marijuana was detected. Believing someone may be smoking tainted marijuana, and in medical danger, the officers stormed the castle. Marijuana was found, but no one was found to be in medical distress.

ISSUE(S): (1) Was there compelling need for emergency official action in this case?

HOLDING(S): (1) NO. No evidence existed that anyone inside the home was suffering from any medical distress or would suffer from any imminent harm. The only facts the officers had knowledge of when they arrived at defendant's home were that a few people had probably been treated for unusual symptoms and one of them had purchased possible tainted marijuana from the defendant.

ANALYSIS: Exigency was not found to apply in this case. The officers could have asked the woman who answered the door if anyone was in medical distress and/or asked the occupants to come to the door to check on their condition. There was no compelling need for official action. In addition, once the officers entered the home, there was no evidence presented that the officers conducted a sweep of the home to see if anyone was in distress.

STATE v. JAY, 167 Idaho 592 (Ct.App.2020)

FACTS: A trooper, minding his own business, like troopers do, saw an SUV parked on the right shoulder of the interstate. The trooper parked behind the SUV and engaged his hazard lights, but did not activate his overhead lights. He walked up to the car where he observed Jay in the driver's seat, slumped back, apparently sleeping. The SUV's engine was not running, nor were the hazard lights engaged.

The trooper knocked twice with no response. He waited 3-5 seconds and then opened the driver's side door. Jay awoke, but was initially incoherent. The trooper asked about Jay's well-being with no response. He then asked to see Jay's driver's license. Jay gave a false name that could not be found within the national database. The vehicle registration did not match the name given, but Jay said he was borrowing the SUV from his cousin. Ultimately, Jay was arrested for DWP and was advised of his Miranda rights. He was searched incident to arrest and his wallet with ID was found in his pants' pocket. Low and behold, Jay had an outstanding felony arrest warrant. The vehicle was impounded and inventoried where drug paraphernalia was found.

ISSUE(S): (1) Whether the officer violated the 4th Amendment when he opened the car door? (2) In the alternative, was the officer properly exercising his community caretaking function when he opened the car door?

HOLDING(S): (1) NO. An officer has the constitutional authority to order an individual out of a car during a lawful traffic stop, and it is irrelevant whether it is the officer or the individual who opens the car door to permit the person to get out of the car. The trooper in this case had reasonable suspicion Jay was illegally parked on I-84 under I.C. 49-660(1)(a)(9). **(2) YES.** An officer may detain an individual when the officer is acting pursuant to the community caretaking function. Under the totality of the circumstances, the intrusive action by the officer was reasonable.

ANALYSIS: (1) The trooper testified when he pulled in behind the SUV, he was investigating both the status of the individual in the SUV and the SUV being illegally parked on the interstate. Jay attempted to argue not all elements of I.C. 49-660 were proven by the State, but the Court disagreed and further held this misstated the issue. The applicable standard is whether the officer had a reasonable and articulable suspicion there was possible criminal activity. **(2)** Defendant's vehicle was parked on shoulder of interstate; he was slumped over in the vehicle with his eyes shut; he did not respond to after trooper knocked twice on the window; after the second knock the trooper waited 3-5 seconds, and seeing no movement or response, he opened the door; and defendant awakened but was incoherent. In light of these circumstances, the officer reasonably executed his community caretaking function when opening the car door to ensure Jay was not suffering from physical or mental health issues which would require medical attention.

NOTE: Jay also argued the evidence should be inadmissible because it was obtained following an arrest of a misdemeanor offense (DWP) that was not committed in the officer's presence. Because this was not challenged in the court below, and Jay did not raise a claim of fundamental error, the Court declined to address the applicability of the *Clarke* decision.

STATE v. HOWARD, 167 Idaho 588 (Ct.App.2020)

FACTS: Howard was a passenger in a vehicle which was being stopped for failing to signal when turning into a driveway. Howard and the driver exited the car and began walking away. The officer ordered them to return to the vehicle. Howard complied but the driver ignored the order and walked away. Howard refused to divulge the driver's name. Howard was informed he was not under arrest, but was placed in handcuffs and frisked and placed in the patrol car. Another officer located the uncooperative driver 4 blocks away. During this time, marijuana was observed in plain view in the center console of the car. A further search revealed meth and paraphernalia. Howard was arrested and searched incident to arrest. A digital scale containing meth residue was found on his person. The district court suppressed the evidence concluding Howard, as a passenger, was unlawfully detained without reasonable suspicion. On appeal, Howard concedes his initial detention was lawful, but his continued detention was unlawful because the officer did not have reasonable suspicion that Howard committed a crime.

ISSUE(S): (1) Whether the officer required reasonable suspicion that Howard was involved in criminal activity to further detain him after the initial traffic stop?

HOLDING(S): (1) NO. Based on the rule articulated by the U.S. Supreme Court in *Arizona v. Johnson*, 555 U.S. 323 (2009) – individualized reasonable suspicion was not required to justify Howard's continued detention. The officer had the complete ability to control the scene and it was lawful to continue to detain Howard during the duration of the traffic stop.

ANALYSIS: Howard was lawfully seized as a result of the traffic stop and authority for his seizure had not yet dissipated by the time the officers observed the marijuana in plain view in the center console, which observation gave the officers the authority to further detain Howard and to conduct a search of the vehicle.

STATE v. RANDALL, --- Idaho --- (Ct.App.2020)

FACTS: Randall caught the attention of a trooper when he slowed down, even though he was within the speed limit and appeared to the trooper to be very rigid, uncomfortable and pressing himself backwards in the seat in an unnatural driving position. The trooper followed the car and conducted a traffic stop when Randall failed to use his turn signal for 5 seconds before changing lanes. Randall was driving a rental car and during the initial encounter his hands were shaking, his carotid artery was pulsating, and the car had a lived-in look that did not match the answers to the trooper's questions. The trooper requested Randall step out of the car and while checking for warrants, the trooper continued to ask about Randall's travel destinations. Based upon the unusual travel, which included known drug trafficking destinations, his level of nervousness and the physical state of the rental car, Randall was asked about possible involvement in drug trafficking. Randall

denied drug trafficking but consented to a drug dog running around the car (Bingo was his name-o). Bingo sniffed and jumped through the open window of the driver's side door becoming stuck halfway. The trooper assisted Bingo into the car to prevent injury to the dog and the car. He alerted in the back seat. Bingo was removed and an additional exterior sniff was conducted where Bingo alerted at the trunk. Randall appealed, and on appeal the State argued the alert on the exterior of the car was sufficient to provide probable cause for the search and the court need not address Randall's complaints regarding Bingo's entry into the car.

ISSUE(S): (1) Whether the officer had reasonable suspicion to expand the traffic stop to a drug investigation? **(2)** Whether the K-9's alert on the exterior of the car gave rise to probable cause to support a warrantless search? (2) Whether the K-9's entry into the car constituted an unlawful search?

HOLDING(S): (1) YES. Based on the totality of the circumstances there was reasonable suspicion to expand the scope of the traffic stop to encompass a drug investigation. **(2) YES.** The drug dog's alert on the exterior of the car independently justified the subsequent warrantless search. **(3) NO.** The dog's initial entry and subsequent sniff of the interior was an instinctual act and not facilitated by his handler, therefore the entry and sniff were not a search under the 4th Amendment.

ANALYSIS: (1) The Court of Appeals distinguished this case from *State v. Kelley*, 160 Idaho 761 (Ct.App.2016) wherein reasonable suspicion was not found based on Kelley's nervousness, confusing travel plans, and traveling on a drug corridor. In this case, the Court said the trooper testified that Randall's nervousness increased when he asked specific questions about Randall's travel plans. The travel itinerary was inconsistent with what average travelers would do, but was consistent with the itinerary drug traffickers use. Because Randall's answers provided the trooper with more information than was available in *Kelley* the Court found reasonable suspicion to expand the traffic stop to a drug investigation by the time the warrants check was completed. **(2)** Even though the district court did not address the exterior sniff, the State had preserved the argument for appeal and the exterior sniff independently justified the warrantless search of the trunk. **(3)** The undisputed evidence indicates Bingo instinctually jumped halfway into the car before getting stuck and before the officer provided any assistance. There was no evidence in the record to suggest Bingo was following training to jump through an open window as opposed to tracking a scent to its source. There was also no evidence the trooper cued, instructed or encouraged Bingo to jump into the car.

STATE v. JACOBSEN, 166 Idaho 832 (Ct.App.2020)

FACTS: Officer validly stopped Jacobsen for a license plate violation. Jacobsen admitted to not having a valid driver's license and could not produce registration or proof of insurance. The officer requested a drug dog while walking back to his vehicle. The K-9 arrived while the officer was writing a citation. The two officers

had a 17-second conversation. Jacobsen and his passenger were removed from the car, patted down, separated and questioned about drug use. After printing the citations, the original officer directed Jacobsen to sit on the curb where he engaged Jacobsen and the passenger in a 43 second conversation while the dog sniffed.

ISSUE(S): (1) Whether the purpose of the traffic stop was abandoned and unlawfully prolonged when the officer stopped writing the citation to speak with the K-9 officer? **(2)** Whether the stop was further abandoned when the officer separated Jacobsen and his passenger and instructed them to sit on the curb? **(3)** Whether the stop was unlawfully prolonged when the officer engaged in casual conversation while the K-9 sniff occurred?

HOLDING(S): YES to all 3. (1) The officer abandoned the purpose of the traffic stop when he spoke with the K-9 officer, **(2)** separately moved and seated the driver and passenger on the curb and **(3)** had a casual conversation with the passenger in order to facilitate a drug dog sniff unsupported by reasonable suspicion.

ANALYSIS: (1) The officer had all the necessary information to complete his citation and was NOT waiting to hear back from dispatch when he stopped and had a 17-second conversation. During that time, the officer deviated from the purpose of the traffic stop. **(2)** Although the traffic stop was complex due the fact neither the driver nor passenger would have been able to drive the car after the traffic stop ended, the officer testified he moved the pair away from the vehicle, at least in part, to facilitate the drug-dog sweep. This added time outside the traffic mission. **(3)** The Court found the officer abandoned the purpose of the stop when he took 43-seconds to casually converse with the passenger, instead of addressing Jacobsen about the traffic violations and concluding the traffic stop, all while the K-9 team engaged in the dog sniff.

STATE v. COX, 166 Idaho 894 (Ct.App.2020)

FACTS: An officer, minding his own business, like cops do, noticed a car with the motor running in a hotel parking lot. Over the course of two hours, the car moved twice to different parking spots. The officer knew the hotel did not allow people to sleep in their cars. Upon approach, the officer could see a knife located between the sleeping driver's legs and a baseball bat near his hand. The officer knocked on the window with his flashlight and Cox startled awake and opened the door. Cox was excitable, speaking quickly and acting agitated. The officer had to continually remind him to keep his hands on the steering wheel and suspected Cox was under the influence of a stimulant. The officer reached in and removed the knife, and then removed Cox from the vehicle to prevent him from grabbing the baseball bat. The officer did not shut the door that Cox had opened. Later, a K-9 did an exterior sniff and alerted in the area between the open door and the interior compartment. Cox filed a motion to suppress arguing the officers had a duty to close the vehicle's

door because Cox was removed from his vehicle. The district court found the K-9 never actually entered the vehicle and that Cox had voluntarily opened the door. Cox argues the dog's nose crossed the threshold of the car in order to sniff the floorboards.

ISSUE(S): (1) Whether the dog sniff of the interior of the vehicle through an open door was an unlawful search? (Or more specifically, whether the dog's sniff of the driver's door pocket and floorboard were instinctual and whether the officers facilitated the dog's sniffs?)

HOLDING(S): (1) NO. The K-9 sniffs of the interior compartment of Cox's vehicle through an open door, which Cox voluntarily opened in response to the officer's knock on the window, did not violate either the 4th Amendment or Article 1, Section 17. The dog's sniff was an instinctual progression and his handler did not encourage or facilitate the K-9's advance to the open door.

ANALYSIS: A dog's brief, instinctual entry into a car does not violate 4th Amendment rights so long as the officer did not facilitate the entry. Cox's argument that the officer facilitated the sniff by knocking on his window and then not shutting his door after he opened it. The Court declined to rule that an officer's knock on a driver's window is a command for the driver to open the door. The Court further declined to conclude the officer had an affirmative duty to close Cox's door before deploying the drug dog.

STATE v. THLA HUM LIAN, --- Idaho --- (Ct.App.2020)

FACTS: Citizens reported an intoxicated driver and an officer spotted a vehicle matching the description. He followed the vehicle for a mile and observed it swerving back and forth in the lane, repeatedly cross the center line, drift over the fog line, getting close to other vehicles and varying speeds from 50 to 90 mph. The officer made a traffic stop, noticed Thla Hum Lian had glassy red eyes and asked if he was drinking. Thla Hum Lian said, "he didn't drink; he was a Christian." Minding his own business, like cops do, a bag on the front-passenger floorboard was spotted containing items labeled "vineyard" which were 4 boxes of unopened wine. He then heard a plastic bottle tip over in the vehicle. The occupants were ordered out and the trooper searched for open containers of alcohol. He discovered two ½-full Coca-Cola bottles, which he opened and smelled the odor of an alcoholic beverage. Afterwards, a DUI investigation with SFSTs were performed and BrAC results of .138/.137 were obtained.

The prosecutor argued the search of the vehicle was allowed under the automobile exception. However, the district court brushed that argument aside because an open container was not seen nor was alcohol smelled emanating from the car. Instead, the district court said the search violated *Terry*, the opening of the Coke bottles violated Plain View, and the SFSTs and breath tests were Fruit of the

Poisonous Tree. On appeal, both sides agreed that *Terry* and the plain view doctrine do not apply to the facts of this case.

ISSUE(S): (1) Whether the automobile exception permitted a warrantless search for open containers? **(2)** Even if search was unconstitutional, whether the field sobriety tests and breath tests were fruit of the poisonous tree?

HOLDING(S): (1) YES. The district court erred when holding Idaho case law requires an officer to see an open container or smell alcohol in order to establish probable cause to search a vehicle for an open container. The Court found an abundance of factors that gave rise to probable cause an open container would be found in the defendant's car. **(2) NO.** The SFSTs and breath tests were not fruit of the poisonous tree. The district court inappropriately concluded they resulted from an illegal search.

ANALYSIS: (1) The factors include: (1) two citizen reports of an impaired driver; (2) Lian's vehicle matched the citizens' description; (3) the officer witnessed Lian's erratic driving; (4) officer observed Lian had glassy red eyes; (5) evidence Lian was lying when claiming he did not drink because he was Christian; (6) the bag containing unopened alcohol; (7) officer heard a plastic bottle tip over in the front driver seat; and (8) officer's testimony of training and experience that people who drink and drive often hide alcoholic beverages in soda bottles. **(2)** Even if the search was unconstitutional, the officer had more than enough evidence to establish reasonable suspicion of a DUI to conduct the SFSTs and breath tests before he discovered the bottles in Lian's vehicle.

STATE v. FARRELL, 165 Idaho 839 (Ct.App.2019)

FACTS: Officer minding his own business, like cops do, suspected a vehicle had eclipsed the safe level of darkness in its windows. The officer used a window tint meter to confirm his suspicions despite being told the windows were factory installed. While writing a citation, a drug-dog sweep led to meth and paraphernalia belonging to Farrell, who was a passenger in the vehicle. Documentation was provided to the trial court proving the window tint was factory installed, therefore within the exception to I.C. 49-944(1).

ISSUE(S): Whether the officer's actions were reasonably related in scope to the circumstances which justified the traffic stop?

HOLDING(S): YES. The traffic stop was not unlawfully prolonged, because it was reasonable for the officer to investigate a possible tint violation, conduct a tint test, and issue the driver a citation. The fact there is an exception in a statute making otherwise unlawful conduct acceptable does not itself dispel an officer's reasonable suspicion.

ANALYSIS: Factually there was no evidence or testimony presented that the officer saw the factory window marking or that the marking was readily apparent. Furthermore, nothing in the marking indicated the window tint was installed when the vehicle was new. The officer engaged in a lawful stop based on reasonable suspicion and carefully tailored the scope of the detention to its underlying justification.

STATE v. STILL, 166 Idaho 351 (Ct.App.2019)

FACTS: During a traffic stop for speeding and expired tags, an officer minding his own business, like cops do, called for a K-9 and his human companion while the driver was retrieving his paperwork. Upon returning to his patrol car, the officer again called for the K-9 believing his human companion did not hear the first radio transmission. This took 10 seconds. Still filed a motion to suppress arguing this action unlawfully prolonged the traffic stop.

ISSUE(S): (1) Whether a radio call to inquire if a drug dog is available constitutes an abandonment of the traffic mission so as to amount to an unlawful extension of the traffic stop?

HOLDING(S): (1) NO. A radio call to inquire if a drug dog is available does not constitute an abandonment. The U.S. Supreme Court's decision in *Rodriguez*, does not prohibit all conduct that in any way slows the officer from completing the stop as fast as humanly possible. At most, the radio call is a precursor to an alternate investigation. Although the call may (or may not) result in an alternate investigation, which may or may not pass constitutional muster, the call itself does not amount to a 4th Amendment violation.

ANALYSIS: An abandonment occurs when officers deviate from the purpose of the traffic mission in order to investigate, or engage in safety measures aimed at investigating crimes unrelated to roadway safety for which the officers lack reasonable suspicion. However, the Court of Appeals said it could not conclude that any pause during a traffic stop requires a conclusion the officers abandoned the purpose of the stop. This is inimical to the 4th Amendment's reasonableness requirement.

IV. MIRANDA – 5th Amendment

STATE v. KENT, --- Idaho --- (2020)

FACTS: A probation search was conducted of Kent's home, when Kent was not home, but his contraband was. Later an officer later met with Kent at his home. The officer told Kent about the contraband and Kent denied the paraphernalia was his. The officer then began reading Kent the *Miranda* warning. While the rights were being read, Kent interrupted and stated he would not answer any questions. The officer continued with the *Miranda* warning and at its conclusion asked if Kent was willing to talk. Kent agreed to talk and made several incriminating statements. Despite Kent not being in custody during questioning, the district court held, "Where *Miranda* warnings are read to an individual unnecessarily and the defendant invokes the right to remain silent, an officer may not ignore that invocation."

ISSUE(S): (1) Was the officer required to stop questioning Kent after he invoked his right to remain silent even though Kent was not in custody? **(2)** If an officer unnecessarily informs a person of his *Miranda* rights, is the officer required to comply with those *Miranda* measures, including ceasing questioning once the right to remain silent is invoked?

HOLDING(S): (1) NO. The specific restrictions regarding questioning a suspect created by *Miranda* are limited to custodial interrogations by a government actor. Kent was not in custody. Therefore, the officer was not required to stop questioning. **(2) MAYBE.** An unnecessary reading of *Miranda* is merely a factor to be considered in determining whether the statements were involuntary or given in violation of the 5th Amendment. In this case, Kent's statement were voluntary under the totality of the circumstances.

ANALYSIS: (1) Whether a defendant has the right to cut off questioning outside of custody is a matter of first impression in Idaho. However, the U.S. Supreme Court has suggested that one cannot anticipatorily invoke a safeguard of *Miranda*. Because the right to cut off questioning is a right created by *Miranda* as a safeguard to the inherently coercive custodial interrogation, the safeguard is only applicable once the suspect is in custody. **(2)** The rule adopted by the Idaho Supreme Court is to balance between ensuring that *Miranda* warnings do not rise to such a level that the interrogation becomes coercive, but also not deter the police from providing warnings that will benefit the suspect and also protect law enforcement from allegations of *Miranda* violations and their ability to investigate a crime. In this case, Kent's confession was voluntary based on the following: (a) the interview only lasted approximately 15 minutes; (b) Upon completing the warning the officer did not badger Kent – he simply asked if Kent would be willing to speak with him; and (c) the interview occurred in Kent's own home. Nothing in the record suggests Kent's will was overborne by the police officer's actions.

CAUTION: Kent had the right to remain silent throughout his entire interaction with the officer. The Supreme Court said if he had invoked that right and sat mute, the officer would be obliged to desist. However, the Court said it would leave for another day the length to which an officer may persist when confronted with an "intransigent suspect," who is not in custody, yet declines to answer the officer's questions.

STATE v. GNEITING, 167 Idaho 133 (2020)

FACTS: Officers responded to a potential burglary in progress at a motel. Gneiting was present in the motel parking lot and consented to a pat-down search. The officer felt a "hard bulgy object" that Gneiting said was a sanitary napkin, but the officer suspected might be illegal drugs. During the investigation enough evidence was found in a motel room to arrest Gneiting for drug crimes. The officer warned Gneiting multiple times that if she had anything illegal on her and took illegal items to the jail, she would receive an additional charge for bringing contraband into the jail. Gneiting denied having anything illegal on her person. Gneiting was given a last chance to turn over any illegal drugs upon arriving at the jail. A later search by jail staff found 31.41 grams of meth.

ISSUE(S): (1) Did Gneiting voluntarily possess methamphetamine in the county jail when she was brought there against her will? **(2)** Did the choice between confessing to the possession of contraband violate defendant's 5th Amendment right against self-incrimination?

HOLDING(S): (1) YES. An arrestee acts voluntarily when they are given an opportunity to give up any contraband before being taken into a correctional facility but choose to continue to possess the contraband. **(2) NO.** Sometimes choices faced by a defendant may have the effect of discouraging the exercise of constitutional rights but that does not mean such choices are prohibited.

ANALYSIS: (1) The Idaho Supreme Court adopted the majority view from other jurisdictions and explained that the defendant in this case was advised multiple times and given multiple opportunities to not continue to conceal or fail to disclose contraband on her person. It would be inappropriate to read a "voluntary presence in a correctional facility" element into I.C. 18-2510(3) when its plain language explicitly applies to prisoners, whose presence within a correctional facility is not voluntary. **(2)** Although the choice Gneiting was confronted with was a difficult one, it was not involuntary simply because it involved a constitutional right. Obviously, the invocation of the right to remain silent would not prevent law enforcement from searching an arrestee who has been brought into a correctional facility. The Court cited numerous cases explaining, "The criminal process, like the rest of the legal system, is replete with situations requiring the making of difficult judgments as to which course to follow."

STATE v. SAMUEL, 165 Idaho 746 (2019)

FACTS: Samuel was found guilty of second-degree murder of his father and first-degree murder for killing his brother. There were various issues on appeal. This brief only covers the issue of whether Samuel knowingly, intelligently and voluntarily waived his *Miranda* rights and whether his confession was coerced. The district court considered these factors: age and maturity, experience, education, intelligence, background, access to a parent or supportive adult, whether Miranda warnings were given, capacity to understand the warnings, the nature of his rights and the consequences of the waiver, length of the detention and repeated and prolonged nature of the questioning, deprivation of food or sleep, and the presence of coercive interrogation tactics, before concluding Samuel's Miranda waiver was knowing, intelligent and voluntary.

Samuel argues that he did not knowingly, intelligently, or voluntarily waive his Miranda rights for these reasons: (1) Detective Wilhelm did not clearly and correctly inform Samuel of his rights; (2) Detective Wilhelm did not present Samuel's rights in a way that made sure he actually understood them; (3) Detective Wilhelm trivialized the importance of Samuel's rights and downplayed the severity of his situation; (4) Samuel was in a horrible mental and physical state during the interrogation; (5) Samuel did not have the help of a "friendly adult;" and (6) Samuel's age, immaturity, and lack of education amplified the deficiency of these warnings and coercive force of the officers' tactics.

ISSUE(S): (1) Whether the Miranda waiver was knowingly, intelligently and voluntarily made? **(2)** Whether his confession was given voluntarily?

HOLDING(S): (1) YES. The district court's analysis properly addressed all of the necessary factors on whether there was a valid Miranda waiver and whether Samuel's confession was voluntary. **(2) YES.** In reviewing all relevant factors, the Court held Samuel's confession was voluntary.

ANALYSIS: (1) Samuel had indicated he understood his rights at least 5 times. Then upon signing the waiver form he conveyed once more that he understood his rights. The Supreme Court agreed with Samuel that some of the detective's statements were not the picture of clarity and perhaps too casual given the gravity of the situation, but "even so" he was provided with the substance of the Miranda warnings both orally and in writing and repeatedly showed he understood them. He was calm and engaged in the conversation, he was allowed to go to the bathroom twice, he was provided with water and pizza (that he did not eat, saying he was not hungry). Samuel did not know how to contact his mother, and prior to the interview, he did not have an attorney, therefore there was no supportive adult the officers could have reached-out to during his interview. Samuel was 14-years and 8 months old, and the evidence showed he was able to work independently on schoolwork, had no trouble communicating, and amazed his teachers how fast he could catch up after being absent often. **(2)** First, Samuel had been given

Miranda warnings both orally and in writing and stated affirmatively he understood each of his rights. Second, based on the same factors as discussed above, Samuel was found to be at least of average intelligence, particularly for written and oral communication. The entire interview was approximately 5 hours, in which he was given several breaks and allowed to use the bathroom. The officers were found to be polite and considerate, they respected Samuel's personal space, they did not threaten him and the tactics employed did not overbear Samuel's will.

STATE v. BODENBACH, 165 Idaho 577 (2019)

FACTS: Bodenbach claimed he took Xanax to calm is nerves shortly after shooting and killing his neighbor. After his arrest, Bodenbach complained of pain in his neck and back, purportedly from an earlier altercation with the neighbor. He was transported to the hospital because of his complaints. The responding paramedics described Bodenbach as alert to time, place, event and person. They described him as anxious and agitated but not aggressive and his vital signs were stable. Bodenbach scored a 15 on the Glasgow Coma Scale (GCS), the highest score available, indicating no obvious impairment. The officer accompanying Bodenbach to the hospital testified he was capable of answering the paramedics questions promptly and appropriately. He was able to give a detailed health history and personal information. The hospital similarly reported Bodenbach was alert and oriented and still scored a 15 on the GCS. He did not have trouble speaking, nor was his speech slurred. Approximately 2 hours after he claimed to have ingested Xanax a detective gave Miranda warnings and interviewed Bodenbach.

ISSUE(S): (1) Whether Bodenbach was under the influence of Xanax wherein he was incapable of knowingly and intelligently waiving his *Miranda* rights?

HOLDING(S): (1) NO. The court held Bodenbach was not under the influence, but even if he was, the waiver was knowingly and intelligenty waived based on the totality of the circumstances, including Bodenbach's age, familiarity with the criminal justice process and Miranda rights, and his cogent discussions.

ANALYSIS: The finding that Bodenbach was not under the influence of Xanax was supported by substantial and competent evidence. Even if Bodenbach had ingested Xanax, he still knowingly and intelligently waived his Miranda rights. Even if Bodenbach were impaired, he was not so impaired as to make his waiver invalid. Intoxication does not make statements per se involuntary, rather, it is just one factor to consider in the totality of the circumstances.

STATE v. BILLS, 166 Idaho 778 (Ct.App.2020)

FACTS: A search warrant was being executed at the address where Bills resided. She was handcuffed and taken outside. An officer observed a small bulge in the front right pelvic area of Bills' pants. The officer conducted a search for weapons and determined the bulge was a 1" x 2" cylinder. Bills was asked what the object was but she did not respond. The officer retrieved the object and suspected the tube contained heroin and a small bag of meth. Bills was read Miranda and admitted the substance was heroin and the baggie might be bath salts. The district court held the frisk was unlawful as the officer did not have reasonable suspicion that Bills was armed and dangerous. However, the district court found the drugs were admissible under the inevitable discovery doctrine because Bills would have been searched incident to arrest. Her statements prior to Miranda were suppressed but the statements after Miranda were allowed. On appeal, the State conceded the frisk and subsequent search were unlawful and the defense conceded the drugs found on her person were admissible under the inevitable discovery doctrine. However, the parties did not agree regarding the admissibility of the statements made by Bills.

ISSUE(S): (1) Whether the statements made by Bills would have been inevitably made despite the unlawful search?

HOLDING(S): (1) NO. The statements made by Bill when she was confronted with the drugs found on her person after an illegal search were fruit of the poisonous tree.

ANALYSIS: The inevitable discovery doctrine is an exception to the fruit of the poisonous tree doctrine suppressing the evidence; it is not an exception to the illegal search. Each piece of evidence must have an independent basis for admissibility. In this case, the State did not point to any evidence to indicate Bills would have spoken and given the same answers absent the initial illegal search. A defendant, after given time to reflect upon her circumstances, may not make the same statements or make any statements at all. Simply because the physical evidence is ultimately admissible does not mean the statements are also admissible.