

**BOISE, THURSDAY, JANUARY 16, 2025, AT 10:30 A.M.**

**IN THE COURT OF APPEALS OF THE STATE OF IDAHO**

**Docket No. 51222**

**STATE OF IDAHO,** )  
 )  
 **Plaintiff-Respondent,** )  
 )  
 **v.** )  
 )  
 **RYAN OTTHO MORGAN,** )  
 )  
 **Defendant-Appellant.** )  
 )

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Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Steve Hippler, District Judge.

Nevin, Benjamin & McKay LLP; Dennis Benjamin, Boise, for appellant.

Hon. Raúl R. Labrador, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

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Morgan appeals from the district court’s denial of his motion to suppress evidence obtained during a vehicle search. Morgan was stopped for driving a vehicle whose registration was suspended for lack of insurance. A second officer arrived with a K-9 drug dog (Rico). The officer instructed Rico to conduct an open-air sniff of the vehicle. Officer Johnson determined that Rico’s behavior was consistent with identifying drug odors and narrowing the odor’s source. On occasion during the open-air sniff, Rico put his paws on the vehicle. Rico eventually gave a final response by pressing his nose against the door and looking back at Officer Johnson. Subsequently, the two officers searched the vehicle and found controlled substances and paraphernalia.

On appeal, Morgan contends the officer’s opinion that Rico exhibited behaviors identifying the presence of a controlled substance in the vehicle is subjective. Additionally, due to its subjective nature, Morgan argues that the evidence is insufficient for the district court to determine that probable cause existed before the dog had given its final indication. In doing so, Morgan contends that this Court should disavow *State v. Ricks*, 143 Idaho 74, 539 P.3d 190 (Ct. App. 2023). Morgan argues that a bright-line rule should be created that a final indication by the drug dog is required for probable cause, which would overrule the precedent created in *Ricks*. Alternatively, Morgan contends that if a final indication is not required to establish probable cause, the State did not meet its burden of proving the drug dog’s reactions established probable cause prior to the dog’s trespass on the vehicle.