

BOISE, FRIDAY, FEBRUARY 7, 2025 at 10:00 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,)	
)	
v.)	Docket No. 51771
)	
MATTHEW DAVID BERRY,)	
)	
Defendant-Appellant.)	
_____)	

Appeal from the District Court of the Fourth Judicial District of the State of Idaho, Ada County. Bradly S. Ford, Senior District Judge.

Erik R. Lehtinen, State Appellate Public Defender, Boise, for Appellant.

Raúl R. Labrador, Idaho Attorney General, Boise, for Respondent.

Matthew David Berry appeals his judgment of conviction for trafficking in heroin. In December 2020, officers responded to Berry’s home to conduct a welfare check after dispatch received a 911 call from inside the home by an individual with labored breathing. During the welfare check, officers found Berry unconscious on the bathroom floor from an apparent drug overdose. Officers also found a child sleeping in a nearby room. As paramedics revived Berry and strapped him to a backboard for transport to the hospital, an officer searched Berry’s pants pockets and retrieved a plastic baggie containing a substance later determined to be heroin.

The State subsequently charged Berry with trafficking in heroin and injury to a child. Berry moved to suppress all evidence obtained as a result of the warrantless search of his pants pockets. He argued the search could not be premised on *Terry v. Ohio*, 392 U.S. 1 (1968) (a *Terry* frisk), because there was no reason for an officer to believe that Berry was armed and dangerous to justify an exterior pat down. Berry also argued, in the alternative, that even if the *Terry* frisk of his outer clothing was lawful, the search of his interior pockets was unlawful.

Following a hearing, the district court denied Berry’s motion to suppress, concluding that (1) the *Terry* frisk was justified based on a concern that a syringe could be present and used as weapon on the paramedics, and (2) the search of his interior pockets was justified on the plain-feel doctrine. Berry entered a conditional plea to trafficking in heroin, reserving his right to appeal the district court’s denial of his motion to suppress. On appeal, he contends the district court erred in concluding the exterior pat down was lawful, but if this Court disagrees, he argues the search of his interior pockets was not justified under the plain-feel doctrine.