

SUMMARY STATEMENT

State of Idaho v. David John Harper

Docket No. 44819

David John Harper was charged with trafficking in marijuana. An officer observed Harper driving his vehicle on the freeway about one and one-half car lengths behind another vehicle at a speed of approximately 65 mph. The officer stopped Harper's vehicle for following too closely, in violation of Idaho Code § 49-638(1). Upon approaching the vehicle, the officer smelled the odor of marijuana and noticed two large, gift-wrapped boxes in the back seat of the vehicle. The officer deployed his drug detection canine, who alerted to the odor of drugs on the exterior of the vehicle and to the gift boxes inside. The officer searched Harper's vehicle and opened the boxes. Inside the boxes were freezer-style packages of what appeared to be marijuana. Together, the packages contained 17.38 pounds of marijuana.

Harper filed a motion to suppress the marijuana, arguing the officer lacked reasonable suspicion for the traffic stop because I.C. § 49-638(1) is unconstitutionally vague. The district court denied Harper's motion to suppress, holding I.C. § 49-638(1) is not unconstitutionally vague and the officer had reasonable suspicion to effectuate the traffic stop. At trial, Harper was found guilty of trafficking in marijuana, in violation of I.C. § 37-2732B(a)(1). The district court imposed a determinate, three-year sentence. On appeal, the Idaho Court of Appeals affirmed the district court's decision that I.C. § 49-638(1) is not unconstitutionally vague and that the officer had reasonable suspicion to conduct a traffic stop and affirmed Harper's judgment and commitment.