

BOISE, FRIDAY, FEBRUARY 15, 2019 AT 10:00 A.M. at Concordia Law School

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	
Plaintiff-Appellant,)	
)	
v.)	Docket No. 45569
)	
DAVID ALLEN POOL,)	
)	
Defendant-Respondent.)	

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Deborah A. Bail, District Judge.

Hon. Lawrence G. Wasden, Idaho Attorney General, Boise, for Appellant.

Eric Don Fredericksen, State Appellate Public Defender, Boise, for Respondent.

The State appeals from an Ada County district court order granting David Allen Pool's motion to suppress the results of a blood sample that was taken pursuant to Idaho Code section 18-8002 (the implied consent law). The district court granted the motion to suppress on the basis that, absent actual consent or exigent circumstances, the State needed a warrant to conduct the blood draw. The State argues that the implied consent law allows for a warrantless blood draw without actual consent and that the district court erred in engrafting an exigency requirement onto the consent exception to the warrant requirement. Pool concedes that exigent circumstances are not required under the consent exception and that he did not withdraw his implied consent to the blood draw, but argues that consent to a search must be actual, not implied, to comply with the Fourth Amendment to the United States Constitution. Accordingly, he argues that the Court should reconsider and overrule its precedent to the contrary.