

SUMMARY STATEMENT

State v. Thla Hum Lian

Docket No. 47199

The State of Idaho appealed from the district court's order granting Thla Hum Lian's motion to suppress. Lian was charged with felony driving under the influence, Idaho Code §§ 18-8004, -8005(6), after Idaho State Police Trooper Noyes received citizen reports of an intoxicated driver. Trooper Noyes followed Lian, observed his erratic driving behavior, and made a traffic stop. Upon approaching Lian, the trooper noticed a variety of factors which caused him to search Lian's vehicle for an open container. Trooper Noyes found two bottles, opened and smelled the bottles, and determined that the bottles contained alcohol. Thereafter, Trooper Noyes administered field sobriety tests. Based on Lian's performance, the trooper placed Lian under arrest and conducted breathalyzer tests. Based on these test results, the State charged Lian with felony DUI. Lian filed a motion to suppress the evidence obtained as a result of the search. The district court granted Lian's motion concluding that the vehicle search was proper as a *Terry*¹ frisk but opening the bottles was inappropriate under the plain view doctrine. In addition, the court suppressed the results of the field sobriety and BAC tests as fruits of the poisonous tree and granted Lian's motion to dismiss.

On appeal, the State argued that the district court erred (1) in its analysis and conclusion by finding that the trooper committed a constitutional violation when searching Lian's vehicle because the search was justified under the automobile exception, and (2) by suppressing Lian's field sobriety and BAC tests as fruits of the poisonous tree. The Court of Appeals held that the district court erred in granting Lian's motion to suppress because the district court was under the incorrect assumption that Trooper Noyes was required to either see or smell alcohol to justify searching Lian's vehicle for an open container under the automobile exception. The Court of Appeals concluded that the proper test was a totality of the circumstances analysis and Trooper Noyes had probable cause to search Lian's vehicle under the automobile exception to the warrant requirement.

Next, the Court of Appeals held that the district court erred in suppressing the field sobriety and BAC test results as fruits of the poisonous tree because Trooper Noyes had more

¹ *Terry v. Ohio*, 392 U.S. 1 (1968).

than enough evidence to establish reasonable suspicion that Lian was driving under the influence before searching Lian's vehicle and the tests results were not a product of Trooper Noyes' search. Therefore, the Court of Appeals reversed the district court's order granting Lian's motion to suppress.