

SUMMARY STATEMENT

State v. Howard, Docket No. 47367

Aaron Howard appealed from the denial of a motion to suppress evidence obtained after a police drug-sniffing dog momentarily put its nose through an open window during an exterior sniff of a car Howard had been driving. Howard argued that the warrantless intrusion of the dog into the physical space of the car was a trespass, and therefore, an unlawful search under the common law trespassory test articulated in *United States v. Jones*, 565 U.S. 400 (2012).

The Idaho Supreme Court agreed that the dog's intrusion constituted a search. Further, the Court held that the automobile exception to the warrant requirement did not apply because the record did not show officers had probable cause before the dog's entry. While the dog's handler testified that she believed the dog had detected the odor of narcotics before entry, she did not testify to objective facts sufficient to support this belief. Finally, the Court held that an argument by the State that Howard failed to establish Fourth Amendment standing was waived because it was raised for the first time on appeal. Thus, the Court reversed the district court's denial of Howard's motion to suppress and vacated his conviction.

This summary constitutes no part of the opinion of the Court, but has been prepared by court staff for the convenience of the public.