

SUMMARY STATEMENT

State v. Dorff

Docket No. 48119

Kirby Dorff appealed to the Idaho Supreme Court from the denial of his motion to suppress evidence obtained after a police drug-sniffing dog jumped onto the exterior surface of his vehicle. Dorff argued that the drug dog's contact with his vehicle was a trespass for the purpose of obtaining information, and therefore, an unlawful "search" under the common law trespassory test as articulated in *United States v. Jones*, 565 U.S. 400 (2012)—and applied by the Idaho Supreme Court in *State v. Howard*, 169 Idaho 379, 496 P.3d 865 (2021) and *State v. Randall*, 169 Idaho 358, 496 P.3d 844 (2021), where the Court concluded that a drug dog's entry into a vehicle is a "search" under the Fourth Amendment. The Idaho Supreme Court explained that a "search" occurs when a drug dog trespasses against the exterior of a vehicle during a "free air" drug sniff if its physical contact with the vehicle amounts to "intermeddling" at common law. The Court then determined that the relevant drug dog intermeddled with Dorff's vehicle when it jumped onto the front driver's side door and window, planted its two front paws, and sniffed the vehicle's upper seams. This trespass for the purpose of obtaining information was a warrantless "search" of Dorff's vehicle, and the State did not argue that an exception to the Fourth Amendment's warrant requirement applied. From this, the Court reversed the denial of Dorff's motion to suppress, vacated his conviction, and remanded the case to district court for further proceedings.

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