

SUMMARY STATEMENT

State v. Vivian
Docket No. 49271

The Idaho Supreme Court reversed the district court's decision denying the motion to suppress, vacated Vivian's judgment of conviction, and remanded for further proceedings.

Law enforcement conducted a traffic stop of Arthur Ellis Vivian for inoperable break lights. Vivian informed the primary officer that his driver's license was suspended and the officer returned to his vehicle to run Vivian's information through dispatch and write Vivian a citation. Another officer at the scene recognized Vivian and told the primary officer that there could be narcotics in the vehicle. The primary officer called for a drug-sniffing K-9. The primary officer waited for the K-9 to arrive before asking Vivian to exit the vehicle so the officer could give Vivian a citation for driving with a suspended license. The drug dog alerted to a controlled substance in the vehicle while the primary officer was issuing the citation to Vivian. Officers then searched Vivian's vehicle and found controlled substances and paraphernalia.

Officers questioned Vivian twice—before searching his vehicle, and after discovering the contraband. The officer conducting the questioning advised Vivian of his *Miranda* rights after law enforcement found the contraband. Vivian made incriminating statements relating to the contraband both before and after being read his *Miranda* rights. The State charged Vivian with possession of a controlled substance pursuant to Idaho Code section 37–2732(c) and possession of drug paraphernalia pursuant to Idaho Code section 37–2734A. Vivian subsequently moved to suppress all evidence gathered as a result of an illegal seizure, and alleged that law enforcement unlawfully extended the traffic stop in violation of the Fourth Amendment.

The district court granted the motion and held that the officers unlawfully extended the traffic stop by delaying issuance of the citation while waiting for the K-9 unit. However, the district court admitted the evidence of the methamphetamine and drug paraphernalia after determining the evidence would have been inevitably discovered. The district court suppressed all of Vivian's pre-*Miranda* statements but declined to rule on Vivian's post-*Miranda* statements which effectively denied his motion. Vivian appealed the part of the district court's decision declining to suppress his post-*Miranda* statements.

The Court of Appeals affirmed the district court's decision after determining that Vivian failed to preserve his argument on appeal because he failed to obtain an adverse ruling by the district court on appeal. The Idaho Supreme Court granted Vivian's petition for review of the Court of Appeals decision.

The Supreme Court held that Vivian preserved his argument concerning the suppression of his post-*Miranda* statements by presenting the issue to the district court and providing the district court with the opportunity to consider and decide the issue. The Court also held that the district court erred in declining to suppress Vivian's post-*Miranda* statements because the statements resulted from the illegally extended stop and the State failed to demonstrate an exception to the exclusionary rule because the inevitable discovery doctrine does not apply to verbal statements. Accordingly, the Court reversed the district court's decision that Vivian's post-*Miranda* statements were admissible, vacated Vivian's judgment of conviction, and remanded 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.