

## SUMMARY STATEMENT

*State of Idaho v. Jared Wayne Garitone*

Docket No. 49825

In this case arising out of Kootenai County, the Court of Appeals affirmed the district court's decision, on intermediate appeal from the magistrate court, affirming Jared Wayne Garitone's judgment of conviction for driving under the influence. Law enforcement performed a traffic stop after observing what the officer suspected was Garitone unlawfully talking on a cell phone while driving in violation of I.C. § 49-1401A(2). Subsequent investigation revealed evidence that Garitone was driving under the influence. Garitone filed a motion to suppress, arguing that the officer lacked reasonable suspicion to conduct the traffic stop. The magistrate court denied the motion, concluding the officer did have reasonable suspicion that Garitone was using a cell phone while driving. In denying the motion, the magistrate court also rejected Garitone's alternative argument that, even if the officer had reasonable suspicion Garitone was using a cell phone, his use was lawful under the "hands-free" exception to I.C. § 49-1401A(2).

On appeal, Garitone asserted error in the denial of his motion to suppress because the officer did not have reasonable suspicion that Garitone was using a cell phone while driving and even if he did, it was lawful use under the "hands-free" exception to I.C. § 49-1401A(2). The Court of Appeals held that the officer had reasonable suspicion that Garitone was unlawfully using a cell phone while driving, in violation of I.C. § 49-1401A(2) and that he failed to show error in the denial of his motion to suppress.

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