

SUMMARY STATEMENT
State of Idaho v. Ryan Ottho Morgan
Docket No. 51222

Ryan Ottho Morgan was stopped by Officer Moss for driving a vehicle with a suspended registration. A short while after the initial traffic stop, Officer Johnson arrived with a drug dog (Rico). Officer Johnson had Rico conduct an open-air sniff of the exterior of the vehicle. After sniffing around the exterior of the vehicle, Rico gave a final alert on the passenger side door. Officers conducted a search of the interior of the vehicle and found controlled substances and drug paraphernalia.

Morgan was charged with two counts of possession of a controlled substance (fentanyl and cocaine) with the intent to deliver, Idaho Code § 37-2732(a), and possession of drug paraphernalia, I.C. § 37-2734A. Morgan filed a motion to suppress, contending that Officer Moss lacked reasonable suspicion to conduct a traffic stop, the drug dog conducted a trespass against the vehicle before its final alert, and Officer Moss unlawfully extended the stop by radioing for a drug dog. The State responded, asserting that Officer Moss had reasonable suspicion to conduct a traffic stop, the stop was not unlawfully prolonged, and although Rico contacted the vehicle (considered a trespass), probable cause to search Morgan’s vehicle was established prior to Rico making contact with the vehicle. The district court held an evidentiary hearing and denied the motion.

On appeal, Morgan argued that the Idaho Court of Appeals should disavow its decision in *State v. Ricks*, 173 Idaho 74, 77, 539 P.3d 190, 193 (Ct. App. 2023), review granted (May 17, 2023), review dismissed as improvidently granted (Dec. 14, 2023). In *Ricks*, the Court held that probable cause may exist even if the drug dog has not given its final alert. *Id.* Morgan contended that this Court should create a bright-line rule that a final alert is required before probable cause may be established. Alternatively, Morgan argued that an officer’s subjective belief that a drug dog has identified the presence of a controlled substance in a vehicle prior to a final alert is insufficient to establish probable cause. Finally, Morgan argued that if a final indication is not required to establish probable cause, the State failed to meet its burden to show that Rico’s behaviors were sufficient to establish probable cause prior to trespassing on the vehicle.

The Court of Appeals held that Morgan’s advocacy for a bright-line rule cannot be reconciled with prior legal precedent. *See Florida v. Harris*, 568 U.S. 237 (2013); *Illinois v. Gates*, 462 U.S. 213, 230-31 (1983) (the “totality-of-the-circumstances approach is far more consistent

with our prior treatment of probable cause than is any rigid demand that specific “tests” be satisfied). Thus, the Court declined to create a bright-line rule that a final alert is necessary to establish probable cause. Consequently, the Court declined to overrule its decision in *Ricks*. Further, the Court held that an officer’s testimony as to a drug dog’s behavior prior to final alert as indicative of the presence of controlled substances is neither inappropriately subjective nor prohibited in consideration of probable cause. Finally, The Court upheld that the district court’s determination that probable cause existed prior to Rico’s contact with the vehicle. Thus, the Court affirmed the district court’s order denying Morgan’s motion to suppress and his judgment of 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.