

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 45606

STATE OF IDAHO,)
)
 Plaintiff-Respondent,)
)
 v.)
)
 JOHN LEROY PENA,)
)
 Defendant-Appellant.)
)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Nancy A. Baskin, District Judge.

Eric D. Fredericksen, State Appellate Public Defender; Lara E. Anderson, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Ted S. Tollefson, Deputy Attorney General, Boise, for respondent.

An officer encountered John Leroy Pena at 3:15 a.m. while Pena was in a dark area of a hotel parking lot sitting in a parked car with the engine running and the lights off. During the subsequent encounter between the officer and Pena, the officer learned Pena was on parole and saw that Pena had a glass object with white residue that resembled a methamphetamine pipe. The officer requested an assistance officer and subsequently arrested Pena. While being placed under arrest, Pena threw the glass object on the ground. The object was a glass pipe that contained a substance that tested positive for methamphetamine. The officer also found a bag of methamphetamine in Pena’s pocket as part of a search incident to arrest.

The State charged Pena with possession of a controlled substance and possession of drug paraphernalia. Pena filed a motion to suppress alleging he was unlawfully detained without reasonable suspicion; even if his detention was lawful, it was unlawfully prolonged; and the consent to search provision in Pena’s parole supervision agreement did not justify the detention or search because the officers were unaware of the provision or its scope at the time. Following a suppression hearing, the court issued a written decision denying Pena’s motion. The district court concluded that the initial encounter between Pena and the officer was consensual, and that Pena was not detained until the officer had reasonable suspicion that Pena possessed paraphernalia. Pena thereafter entered a conditional guilty plea to possession of a controlled substance, reserving his right to challenge the denial of his motion to suppress.