

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 44338

STATE OF IDAHO, )  
 )  
 Plaintiff-Respondent, )  
 )  
 v. )  
 )  
 DAVID LYNN STEWART, )  
 )  
 Defendant-Appellant. )  
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Appeal from the District Court of the Third Judicial District, State of Idaho, Canyon County. Hon. D. Duff McKee, District Judge; Hon. John Meienhofer, Magistrate.

Robyn A. Fyffe, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; John C. McKinney, Deputy Attorney General, Boise, for respondent.

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After being charged with driving under the influence, David Lynn Stewart sought suppression of incriminating evidence that was obtained during the course of a traffic stop. Stewart claimed that the basis for the stop, that he had been speeding, was invalid because the arresting officer was mistaken as to the speed limit. The magistrate denied the suppression motion. Stewart entered a conditional guilty plea and preserved his right to appeal the magistrate's denial of the suppression motion. Stewart timely appealed to the district court, which affirmed the magistrate's decision. On further appeal, Stewart argues (1) that the officer's mistake as to the speed limit was unreasonable and (2) alternatively, even an officer's reasonable mistake of law cannot justify an investigatory stop under the Idaho Constitution.