

BOISE, TUESDAY, AUGUST 11, 2020, AT 10:30 A.M.

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 47275

STATE OF IDAHO,)
)
 Plaintiff-Appellant,)
)
 v.)
)
 ANDREW REED WILSON,)
)
 Defendant-Respondent.)
)
 _____)

Appeal from the District Court of the Sixth Judicial District, State of Idaho, Bannock County. Hon. Robert C. Naftz, District Judge.

Hon. Lawrence G. Wasden, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for appellant.

Eric D. Fredericksen, State Appellate Public Defender; Erik R. Lehtinen, Deputy Appellate Public Defender, Boise, for respondent.

An officer arrived at a fast-food restaurant after an employee reported he believed there was an intoxicated driver in the drive-through lane. The officer made contact with the occupants of the vehicle, observed empty beer cans on the floor, and smelled alcohol emanating from the vehicle. Officer Malone then told the driver, Andrew Reed Wilson, to exit the drive-through lane and pull his car over to the side of the parking lot. The officer performed standardized field sobriety tests. Wilson was subsequently arrested and charged with driving under the influence.

Wilson filed a motion to suppress in which he moved to suppress all evidence obtained from the questioning, field sobriety testing, and search of Wilson. The court granted the motion to suppress based on its findings the detention of Wilson was not justified under the community caretaking function, and the officer lacked reasonable suspicion to detain Wilson when the officer asked Wilson to exit the drive-through lane.

The State timely appeals. It concedes the detention was not justified by the officer's community caretaking function but argues the district court erred when concluding the officer lacked reasonable suspicion. Wilson contends the State did not preserve the reasonable suspicion issue for appeal because it did not argue at the district court level the officer had reasonable suspicion to seize Wilson when he asked Wilson to exit the drive-through line. The State's position is that the district court's ruling on the reasonable suspicion issue indicates it was presented below and preserved for appeal.