

BOISE, TUESDAY, AUGUST 10, 2021, AT 10:30 A.M.

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket Nos. 47858/47859

STATE OF IDAHO,)
)
 Plaintiff-Respondent,)
)
 v.)
)
 JEREMY MICHAEL PORTER,)
)
 Defendant-Appellant.)
)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Michael J. Reardon, District Judge.

Eric D. Fredericksen, State Appellate Public Defender; Andrea W. Reynolds, Deputy Appellate Public Defender, Boise, for appellant.

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

In these consolidated cases, Jeremy Michael Porter appeals from two convictions for felony driving under the influence (DUI). Porter argues that the district court erred by denying his motions to suppress in each case.

In the first case, Porter was involved in a two-vehicle accident. Porter showed signs of intoxication and, after failing field sobriety tests, admitted to a prior felony DUI within the last ten years. Porter was initially charged with misdemeanor DUI, and the charge was later amended to a felony. Porter filed a motion to suppress, arguing that the officer lacked legal cause to arrest him for a misdemeanor committed outside the arresting officer's presence. The district court denied the motion, finding that probable cause existed to arrest Porter for felony DUI. Applying an objective standard, the district court found that Porter's admission to a prior felony DUI within the last ten years provided probable cause to arrest for felony DUI, despite the arresting officer's mistaken belief that the offense was a misdemeanor.

In the second case, officers observed Porter drive his vehicle into a parking lot and stop. When they approached the vehicle, they saw that Porter was unconscious at the wheel and attempted to rouse him by tapping on the glass and calling out the name "Justin." After these efforts failed, the officers opened the vehicle door and immediately smelled alcohol. After failing field sobriety tests and refusing the breathalyzer test after one blow, Porter was arrested and charged with felony DUI. Porter filed a motion to suppress, arguing that the officers' actions

in opening the door of the vehicle were unreasonable under the circumstances. The district court disagreed, finding that the officers' actions were reasonable and justified by the community caretaking function.

Porter pled guilty in both cases, reserving his right to appeal. Porter timely appealed both cases to this court, and his appeals were consolidated.