

BOISE, THURSDAY, NOVEMBER 12, 2020 AT 8:50 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	
Plaintiff-Respondent,)	
)	
v.)	Docket No. 47367
)	
AARON JAMES HOWARD,)	
)	
Defendant-Appellant.)	
_____)	

Appeal from the District Court of the First Judicial District of the State of Idaho,
Kootenai County, Fred Gibler, District Judge.

Eric D. Fredericksen, Idaho Public Defender, Boise, for Appellant.

Lawrence G. Wasden Idaho Attorney General, Boise, for Respondent.

This case involves the denial of a motion to suppress evidence obtained after a police drug-sniffing dog put its nose through the open window of a car. During a traffic stop, police learned the driver Aaron Howard had an outstanding arrest warrant. A drug-sniffing dog was deployed to sniff the exterior of the vehicle, and the dog indicated the presence of narcotics. However, before the dog gave its final alert, it put its paws on an open window and stuck its nose into the car. A subsequent search of the car uncovered drug paraphernalia, methamphetamine, and heroin. Howard argues this evidence must be suppressed because the intrusion of the dog's nose into the car was an unlawful search. The State argues that officers had probable cause to search the car before the dog put its nose through the window, and that the dog's instinctive entry was not a search. The State also argues, for the first time on appeal, that Howard did not have standing to challenge the search. In reply, Howard argues that lack of standing cannot be argued for the first time on appeal and asks the Court to overrule Court of Appeals precedent to the contrary.