

**BOISE, MONDAY, DECEMBER 5TH, 2022, AT 10:00 A.M.**

**IN THE SUPREME COURT OF THE STATE OF IDAHO**

<b>ROBERT LEE STARK,</b>	)	
	)	
<b>Petitioner-Appellant,</b>	)	
	)	
v.	)	<b>Docket No. 49886</b>
	)	
<b>STATE OF IDAHO,</b>	)	
	)	
<b>Respondent.</b>	)	
_____	)	

Appeal from the District Court of the Fifth Judicial District of the State of Idaho, Twin Falls County. Roger B. Harris, District Judge.

Eric D. Fredericksen, State Appellate Public Defender, attorney for Appellant.

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

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This case comes to the Court on a petition for review from the Idaho Court of Appeals. Robert Lee Stark appeals from the judgment dismissing his petition for post-conviction relief. In his petition, Stark alleged his trial counsel rendered ineffective assistance when his attorney failed to move to suppress the contents of a backpack that was purportedly searched incident to Stark’s arrest. The district court dismissed Stark’s ineffective assistance of counsel claim, finding Stark did not show either deficient performance or prejudice. The district court concluded that, even if filed, the motion would have been denied because Stark disclaimed ownership of the backpack and the contents inside would have been inevitably discovered. Stark challenges the district court’s ruling, arguing that a motion to suppress would have been granted because: (1) the backpack was not lawfully searched incident to his arrest, (2) the contents of the backpack would not have been inevitably discovered, and (3) his disclaimer of ownership was legally ineffective. Stark appealed to the Idaho Court of Appeals, which affirmed the dismissal. Stark then petitioned the Idaho Supreme Court for review, which was granted.