

SUMMARY STATEMENT

State v. Justin K. Hoskins

Docket No. 45134

In this case arising out of Bannock County, the Court of Appeals reversed the district court's order denying Justin K. Hoskins' motion to suppress and vacated his judgment of conviction for possession of a controlled substance. An officer conducted a traffic stop on a vehicle in which Hoskins was a passenger. During the course of the stop, the owner of the vehicle gave the officer consent to search. Once the officer obtained consent to search, he asked Hoskins to exit the vehicle and instructed him to leave his personal items in the car. One of the items Hoskins left was a pack of cigarettes. During the course of the vehicle search, the officer also searched Hoskins' cigarette pack and found marijuana and methamphetamine. Hoskins filed a motion to suppress, asserting (in relevant part) that he had standing to challenge the search of his personal items and the search of his personal items was illegal. The district court denied Hoskins' motion, concluding that Hoskins lacked standing to challenge the search of the vehicle or his personal items because both the detention and the vehicle owner's consent to search were lawful.

On appeal, Hoskins asserted that the district court erroneously concluded that Hoskins lacked standing to challenge the search of his personal items and that the vehicle owner's consent extended to Hoskins' personal items. The State conceded that the district court erred in both respects. However, the State asked the Court of Appeals to affirm the district court's order under the plain view doctrine--an exception to the warrant requirement the State advanced for the first time on appeal. Alternatively, the State asked the Court to remand to the district court to determine whether the exception applies.

The Court of Appeals held that, under well-settled preservation principles, unpreserved issues will not be considered on appeal, and the parties will be held to the theory upon which the case was presented to the lower court. Accordingly, the Court of Appeals declined to address the State's plain view theory or remand the case for further findings. Because the State had conceded error in the district court's actual decision, the Court of Appeals reversed the district court's order denying Hoskins' motion to suppress and vacated his judgment of conviction.