

SUMMARY STATEMENT

State v. Mullins

Docket No. 45632

In an appeal arising out of Bannock County, John Mullins challenged the district court's denial of his motion to suppress. Mullins and his wife, Tera, were arrested at the federal courthouse in Pocatello after security officers found a vial of methamphetamine in Tera's backpack. The Pocatello police seized the methamphetamine, 65 plastic baggies, and \$403 from the backpack. Prior to taking Mullins and Tera to jail, the couple's personal effects, including the backpack, were placed into the Mullinses' pickup that was in the parking lot pursuant to Tera's instruction. A K-9 officer later ran his drug dog around the pickup, and the dog positively alerted to the presence of drugs in the pickup. The police obtained a search warrant for the pickup based on the dog sniff alert as well as the other evidence seized from the backpack. During the search, the police found methamphetamine in the pickup. Mullins moved to suppress the drug evidence stating law enforcement misled the issuing judge by failing to note the dog would have alerted on the residual odor of the backpack. The district court denied the motion, stating Mullins had not shown the police deliberately or recklessly omitted information from the affidavit to mislead the magistrate judge, and, that even without the dog sniff, there was sufficient evidence to issue the warrant.

The Idaho Supreme Court affirmed. The Court stated that Mullins had not shown the police intentionally or recklessly omitted information from the affidavit in an effort to mislead the magistrate judge who issued the warrant. The Court also stated there was no evidence the police sergeant who wrote the affidavit had any knowledge of the dog's ability to detect residual odor in the backpack, and the sergeant could not have intentionally or recklessly omitted information that was unknown to him.