

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 47695-2020
Plaintiff-Respondent,)	
)	BONNER COUNTY
v.)	NO. CR09-19-307
)	
PATRICIA ANN AMSTUTZ,)	
)	
Defendant-Appellant.)	
_____)	

REPLY BRIEF OF APPELLANT

**APPEAL FROM THE DISTRICT COURT OF THE FIRST JUDICIAL
DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE
COUNTY OF BONNER**

HONORABLE BARBARA A. BUCHANAN
District Judge

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STATEMENT OF THE CASE

Nature of the Case

Ms. Amstutz appeals from her conviction for felony driving under the influence of alcohol (“DUI”), challenging the district court’s denial of her motion to suppress in light of Article I, Section 17 of the Idaho Constitution, as interpreted by the Idaho Supreme Court in *State v. Clarke*, 165 Idaho 393 (2019). In her opening brief, Ms. Amstutz argued the district court erred in concluding her arrest was lawful under Idaho Code § 49-1405, Idaho Code § 19-603(2), and the collective knowledge doctrine. (Appellant’s Br., pp.5-9.) In its Respondent’s Brief, the State attempts to defend the district court’s decision only with respect to the collective knowledge doctrine, and based on the State’s view of what the arresting officer could have known. (Respondent’s Br., pp.6-10.) Ms. Amstutz submits this Reply Brief to argue that her arrest cannot be justified under the collective knowledge doctrine, or under the State’s novel “no knowledge doctrine,” because the State did not present any evidence that *anyone* knew of facts prior to Ms. Amstutz’s arrest which would have provided probable cause for her to be arrested for a felony offense.

Statement of Facts and Course of Proceedings

Ms. Amstutz included a statement of facts and course of proceedings in her Appellant’s Brief, which she relies on and incorporates herein. (*See* Appellant’s Br., pp.1-3.) She restates here the undisputed facts relevant to the narrow issue now presented in this appeal:

- Officer White was dispatched to Ms. Amstutz’s house following a citizen’s report of a suspected drunk driver. (R., p.30, 102; Tr., p.9, L.19 – 10, L.2.) The State did not present any evidence that the dispatcher notified Officer White that Ms. Amstutz had been convicted of driving under the influence in 2010 and 2016. (*See generally* Tr.) The State also did not present any evidence that the dispatcher knew of Ms. Amstutz’s prior DUI convictions. (*See id.*)

- Officer White looked at Ms. Amstutz’s vehicle registration and “vehicle return” while parked at Ms. Amstutz’s house, waiting for a backup officer. (Tr., p.9, L.24 – p.10, L.10.) The information on the “vehicle return” included Ms. Amstutz’s prior DUI convictions, but Officer White testified he did not specifically recall looking at the dates of these prior convictions before arresting Ms. Amstutz. (Tr., p.10, Ls.11-19, p.11, Ls.16-23.)
- Officer White did not specify, at the time he arrested Ms. Amstutz, whether he was arresting her for felony DUI or misdemeanor DUI. (R., p.103; Tr., p.11, L.24 – p.12, L.14.)
- At the police department, Officer White told Ms. Amstutz that if this was her first offense, she could bond out for \$500. (Tr., p.20, Ls.17-23.)
- Officer White transported Ms. Amstutz to jail after arresting her. (Tr., p.12, Ls.15-18.) He looked at Ms. Amstutz’s “vehicle return” again before booking her into jail, and then “booked [her] into the jail on a felony DUI charge.” (R., 103.)
- Officer White testified it was only *after* reviewing Ms. Amstutz’s prior DUI convictions at the jail that he “knew it was a felony.” (Tr., p.14, Ls.15-19.)

ISSUE

Did the district court err in denying Ms. Amstutz's motion to suppress?

ARGUMENT

The District Court Erred In Denying Ms. Amstutz's Motion To Suppress

A. Introduction

The district court denied Ms. Amstutz's motion to suppress because it concluded that her arrest was lawful notwithstanding the Idaho Supreme Court's decision in *State v. Clarke*, 165 Idaho 393 (2019), under Idaho Code § 49-1405, Idaho Code § 19-603(2), and the collective knowledge doctrine. (R., pp.104-08.) Ms. Amstutz challenged each of the three reasons relied upon by the district court in her opening brief. (*See* Appellant's Br., pp.5-9.) The State does not attempt to uphold the district court's conclusions under Idaho Code § 49-1405 or § 19-603(2). (*See generally* Respondent's Br., pp.1-11.) Instead, the State argues the district court correctly concluded the arrest was lawful under the collective knowledge doctrine, and under a novel "no knowledge doctrine," meaning Officer White did not need actual knowledge of Ms. Amstutz's prior convictions (himself or collectively) in order to make a valid felony arrest. (Respondent's Br., pp.4-10.) These arguments are unsupported by the law, and cannot be upheld by this Court on appeal. This Court must vacate Mr. Amstutz's conviction and reverse the district court's order denying her motion to suppress.

B. Officer White Could Not Lawfully Arrest Ms. Amstutz For Felony DUI Under The Collective Knowledge Doctrine Because The State Did Not Present Any Evidence That Anyone Knew Of Facts Which Would Have Provided Probable Cause For Ms. Amstutz To Be Arrested For A Felony Offense

The State contends that Officer White had probable cause to arrest Ms. Amstutz for felony DUI under the collective knowledge doctrine because her prior convictions were displayed on the driver's return that he received from dispatch. (Respondent's Br., pp.7-10.) The State asserts that "because police dispatch personnel clearly knew about the dates of

[Ms. Amstutz's] prior DUI convictions, such knowledge is imputed to Officer White.” (Respondent's Br., p.9.) The obvious flaw in the State's argument is the complete lack of any evidence that police dispatch personnel knew (let alone, “clearly knew”) about the dates of Ms. Amstutz's prior DUI convictions. The State relies on *State v. Carr*, 123 Idaho 127 (Ct. App. 1992), in support of its argument. (Respondents' Br., pp.7-8.) *Carr* is inapposite.

In *Carr*, the Court of Appeals affirmed the denial of the defendant's motion to suppress drugs found during a search of the defendant's vehicle, conducted after the defendant was arrested for driving without privileges. 123 Idaho at 129. The officer in *Carr* stopped the defendant for non-working brake lights. *Id.* The defendant could not provide a driver's license or proof of insurance, but provided the officer with his California identification card. *Id.* Critically, the officer called dispatch and requested that the dispatcher “run a check on Carr's driving and criminal status.” *Id.* “Dispatch responded with information that Carr's driver's license had been suspended or revoked in California.” *Id.* Based on the information he received from dispatch, the officer arrested the defendant for driving without privileges. *Id.* The Court of Appeals rejected the defendant's argument that his arrest was unlawful because the officer lacked sufficient knowledge of his driving privileges. *Id.* at 130. The Court explained:

Probable cause to arrest deals with probabilities that a crime has been committed . . . and an officer is allowed to use all his senses and information from reliable sources to determine whether a crime has been committed The fact that the officer in this case had not personally and directly learned or been notified of Carr's license suspension when he arrested Carr is not dispositive. An officer in the field may rely on information supplied by other officers, and the collective knowledge of police officers involved in the investigation—including dispatch personnel—may support a finding of probable cause.

Id. (citations omitted).

The factual difference between *Carr* and this case could not be more obvious. In *Carr*, the officer who arrested the defendant spoke to dispatch personnel, who notified the officer that

the defendant's license had been suspended or revoked, thus providing the officer with probable cause to arrest the defendant for driving without privileges. 123 Idaho at 129. Here, Officer White did not speak to dispatch personnel regarding Ms. Amstutz's criminal history. Instead, dispatch personnel forwarded to Officer White a "driver's return," which included Ms. Amstutz's name, photograph, address, height, weight, and physical description. (*See* Tr., p.11, L.4 – p.12, L.23.) This was the information Officer White needed to respond to a citizen's report that a person whom he suspected to be driving under the influence of alcohol drove to, and parked at, a particular residence. (*See* R., pp.30, 102; Tr., p.9, L.19 – p.10, L.2.) It was not enough to provide probable cause to arrest Ms. Amstutz for a felony offense.

Officer White testified that the driver's return he received from dispatch also included a "wall of texts" listing all of Ms. Amstutz's traffic infractions, from oldest to newest, including traffic tickets and anything traffic related in the State of Idaho or elsewhere. (*See* Tr., p.11, L.4 – p.12, L.23.) There is no evidence in this case that dispatch personnel reviewed, let alone conveyed, any specific information to Officer White regarding Ms. Amstutz's driver's return. The State asserts in its Respondent's Brief, without citing to anything, that "[p]ersons who send information in response to requests typically know what they are sending, and that the information fulfills the request." (Respondent's Br., p.10.) Surely the mere fact that dispatch personnel sent a driver's return to Officer White in response to his request does not mean the dispatch personnel had actual knowledge of all of the information in the return. An officer cannot make a lawful arrest under the collective knowledge doctrine when there is no evidence that *anyone* actually knew of the specific information that mattered.

C. Officer White Could Not Lawfully Arrest Ms. Amstutz For Felony DUI Under The State's Novel "No Knowledge" Doctrine Because Probable Cause Requires Actual Knowledge, Whether Individually Or Collectively

The State also contends that Officer White had probable cause to arrest Ms. Amstutz for a felony offense regardless of whether he had actual knowledge of her criminal history because that information was available to him. (Respondent's Br., pp.6-7.) The State relies on *State v. Julian*, 129 Idaho 133 (1996), in support of its argument, but *Julian* does not support the State's position.

In *Julian*, the Idaho Supreme Court reversed the district court's order granting the defendant's motion to suppress, concluding the arresting officers had probable cause to arrest the defendant for felony aggravated battery, even though they said at the time of the arrest that they were arresting the defendant for misdemeanor battery. 129 Idaho at 137. The defendant argued his arrest was unlawful because an officer can only arrest a defendant for misdemeanor battery "at the scene of a domestic disturbance," and the officers arrested the defendant at a hospital parking lot, not at the defendant's house, which was where they believed the battery had occurred. *See id.* at 135-36. The *Julian* Court concluded that, because the objective facts known to the officers at the time of the arrest would warrant a person of ordinary prudence to conclude that probable cause existed to arrest the defendant for felony aggravated battery (which does not require that the arrest be at the scene of the disturbance), the arrest was a valid felony arrest. *Id.* at 137-38.

Critically, the officers in *Julian* knew, prior to arresting the defendant, the facts providing probable cause for a felony arrest—they knew that the defendant had struggled with his wife at their house, that the wife's arm had been broken, and that a piece of cloth with blood on it was found at the house. *Id.* at 137. In the present case, Officer White did not know, prior to arresting

Ms. Amstutz, of the facts which could have provided probable cause for a felony arrest. Officer White plainly testified that he could not specifically recall looking at the dates of Ms. Amstutz's prior convictions before arresting her. (Tr., p.10, Ls.11-19, p.11, Ls.16-23.)

The United States Supreme Court has repeatedly said that "the substance of all the definitions of probable cause is a reasonable ground for belief of guilt . . . particularized with respect to the person to be searched or seized." *Maryland v. Pringle*, 540 U.S. 366, 371 (2003) (quotation marks and citations omitted). Here, Officer White did not have a reasonable ground to believe Ms. Amstutz had committed a felony offense simply because he could have, but did not, review information regarding her criminal history.

Officer White arrested Ms. Amstutz for a misdemeanor offense committed outside of his presence. He later determined the offense could be charged as a felony based on Ms. Amstutz's criminal history. (See Tr., p.14, Ls.15-19.) The knowledge that Officer White acquired after arresting Ms. Amstutz cannot be used to retroactively justify the arrest. Ms. Amstutz's arrest was unlawful under Article I, Section 17 of the Idaho Constitution, as interpreted by the Idaho Supreme Court in *Clarke*. The district court thus erred in denying Ms. Amstutz's motion to suppress.

CONCLUSION

Ms. Amstutz respectfully requests that this Court vacate her judgment of conviction, reverse the district court's order denying her motion to suppress, and remand this case to the district court for further proceedings.

DATED this 28th day of January, 2021.

/s/ Andrea W. Reynolds
ANDREA W. REYNOLDS
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of January, 2021, I caused a true and correct copy of the foregoing APPELLANT'S REPLY BRIEF, to be served as follows:

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AWR/eas