

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)
) No. 49099-2021
 Plaintiff-Appellant,)
) Blaine County Case No.
 v.) CR07-19-1575
)
 JONATHAN ELSTON BELL,)
)
 Defendant-Respondent.)
 _____)

BRIEF OF APPELLANT

**APPEAL FROM THE DISTRICT COURT OF THE FIFTH JUDICIAL
DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE
COUNTY OF BLAINE**

HONORABLE NED C. WILLIAMSON
District Judge

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STATEMENT OF THE CASE

Nature Of The Case

The state appeals from the district court's intermediate appellate order reversing the magistrate court's denial of Jonathan Elston Bell's motion to suppress. The state challenges the district court's determination that Article I, Section 17 of the Idaho Constitution prohibits a warrantless arrest for a misdemeanor that was committed in the presence of an officer, but not in the presence of the arresting officer.

Statement Of The Facts And Course Of The Proceedings

In deciding Bell's motion to suppress, the magistrate court made findings of facts, which were not challenged by either party on intermediate appeal and which the district court found to be supported by substantial and competent evidence in the record. (See R., pp.89-92, 164.) The district court summarized the findings as follows:

On May 16, 2019, Officer Pallas was off duty and not in uniform as he was checking out at the Albertsons Grocery Store in Hailey, Idaho. As he was checking out, Officer Pallas noticed Bell. Bell appeared unsteady on his feet, swayed from side to side, front to back, had difficulty walking, and appeared confused. Officer Pallas also observed Bell had difficulty finding his car in the parking lot once he exited the store. Officer Pallas believed Bell's behavior was associated with intoxication, although Officer Pallas did not get close enough to hear Bell's speech pattern or determine whether Bell had the odor of alcohol on his person or breath.

Officer Pallas watched from his personal vehicle as Bell got into the driver's seat of a vehicle and drove the car onto a public street. Officer Pallas called his training officer, Officer Murphy, who was on duty, to report Bell as possibly driving under the influence. Officer Murphy advised that Officer Pallas should call dispatch, which Officer Pallas did. Officer Pallas explained that he gave dispatch a description of the vehicle, the license plate number and reported that the driver was intoxicated.

Officer Pallas left the parking lot, continued onto McKercher Boulevard and turned right onto Main Street, where he parked and waited for Bell to exit the parking lot so he could follow Bell. However, Bell continued straight onto

McKercher after exiting the parking lot, rather than turning right onto Main Street. Officer Pallas made a U-turn in order to follow Bell then he drove on McKercher to Buttercup but did not locate Bell's vehicle until he reached Fourth Street. Officer Pallas noticed other law enforcement officers in the area at that point, Officer Pallas reported Bell's location to dispatch and ended the call. Then Officer Pallas drove to the Hailey Police Station to begin his shift. Officer Pallas did not see Bell violate any traffic laws during his pursuit. After ending the call with dispatch, Officer Pallas had no further role in the investigation and later detention of Bell.

Officer Murphy was on duty when he got the call from Officer Pallas reporting his observations of Bell. When Officer Murphy received the call, he was in Bellevue, and began to respond toward Albertson's during his conversation with Officer Pallas. It did not take Officer Murphy more than ten minutes to respond to Bell's location. Officer Murphy received information from dispatch there was an intoxicated driver in the area of 911 North Main and the Albertsons Grocery Store in Hailey. Dispatch stated that the vehicle was a white GMC Acadia with Idaho license plate Y67E and provided an address of 314 North 4th Avenue. Officer Murphy went to that address and saw the white Acadia parked in the front of the home. Officer Murphy felt the hood of the car, which was warm to the touch.

Officer Murphy activated his bodycam and knocked on the home's front door. A young person answered and told Officer Murphy that they had just returned from the grocery store. The young person told Officer Murphy that Bell was driving the car. Bell came to the door and Officer Murphy asked him to step outside so they could speak to one another. Bell exited the home and during his conversation with Officer Murphy admitted he had just returned from a grocery store. Bell stated that before his trip to the store, he consumed five alcoholic beverages and that he had not consumed any alcohol since he returned home from the store. Officer Murphy said during his conversation with Bell, Bell seemed unsteady on his feet and smelled of alcohol. There were two other officers present during this conversation, although they did not take part in the interaction.

Officer Murphy decided to investigate whether Bell had driven under the influence and asked Bell to perform field sobriety tests. Bell failed the Horizontal Gaze Nystagmus ("HGN") test. Officer Murphy next had Bell attempt a walk and turn test; however, Bell could not stand in the starting position and attempted to walk before being told to begin. Bell told Officer Murphy he could not complete the walk and turn test and chose not to complete it. Next, Officer Murphy attempted to administer the one leg stand test, which Bell also said he could not complete. Murphy placed Bell under arrest for misdemeanor Driving under the Influence and transported him to Blaine County Jail to administer a breath alcohol test. Bell provided samples of 0.326 and 0.330.

(R., pp.164-66 (citations and footnote omitted).) The state charged Bell with misdemeanor excessive driving under the influence (DUI) and injury to child. (R., p.11.)

Bell filed a motion to suppress arguing, among other things,¹ that he was unlawfully seized under Clarke² for a completed misdemeanor. (R., pp.43-46, 61-70.) In response, the state argued that a misdemeanor committed “in the presence of” law enforcement could be established using the collective knowledge of all officers involved in an investigation, not merely the observations of the officer that ultimately made the arrest. (R., pp.73-74.) Under the collective knowledge doctrine, considering the observations and knowledge of both Officers Pallas and Murphy, “the crime occurred in the presence of the Hailey Police department,” and therefore the warrantless arrest was lawful. (R., p.74.) Bell argued that the collective knowledge doctrine did not apply as an exception to Clarke, the collective knowledge doctrine should not apply to an off-duty officer, and the collective knowledge of Officers Pallas and Murphy were insufficient to support either reasonable suspicion or probable cause. (R., pp.79-81.) The magistrate court held a hearing on Bell’s motion at which Officers Pallas and Murphy testified and Officer Murphy’s body camera video was admitted. (See R., pp.55-59; Tr.³; State’s Ex. 1 (body camera video).)

¹ Bell also argued that Officer Pallas lacked reasonable suspicion of DUI, that he was unlawfully seized when Officer Murphy asked to speak with him, and that the field sobriety tests constituted an unlawful search. (R., pp.43-45, 69, 147-49.) Both the magistrate and district court concluded that Officer Murphy’s initial contact with Bell was a consensual encounter that evolved into an investigative detention supported by reasonable suspicion. (R., pp.93-95, 167 n.3.)

² State v. Clarke, 165 Idaho 393, 446 P.3d 451 (2019). Bell’s arrest occurred prior to that decision. However, neither party raised any argument regarding Clarke’s retroactivity. (See R., p.92.) Regardless, this Court has recognized that Clarke “merely memorialized what the framers of the Idaho Constitution initially intended in limiting an officer’s arrest powers for completed misdemeanors” and therefore “the law as clarified therein was binding.” State v. Amstutz, 169 Idaho 144, ___, 492 P.3d 1103, 1106 (2021).

³ The suppression hearing transcript appears in the Exhibits electronic document.

The magistrate court denied Bell's motion to suppress. (R., p.92-95.) The magistrate found that Officer Pallas observed Bell exhibit signs of intoxication and drive a motor vehicle on the roadway. (R., pp.92-93.) Further, it found that Officer Pallas directly communicated his concerns about Bell's possible DUI to Officer Murphy and then supplemented that initial direct communication by providing information to dispatch, which dispatch passed on to Officer Murphy. (R., p.93.) The magistrate court reasoned it was "clear...that Pallas and Murphy [were] working together and it was the collective knowledge of the two officers that gave rise to Murphy contacting Bell and the subsequent arrest of Bell for DUI." (R., p.93.) The magistrate court concluded that the collective knowledge doctrine could be used to establish that a misdemeanor has been committed in the presence of law enforcement and the arresting officer. (R., p.93.) Therefore, the magistrate concluded that "the misdemeanor of Excessive DUI did occur in the collective presence of Officers Pallas and Murphy of the Hailey Police Department," and denied Bell's motion to suppress. (R., p.95.)

Thereafter, Bell entered a conditional guilty plea specifically reserving his right to appeal the denial of his motion to suppress. (R., pp.104-05.) The magistrate court sentenced Bell to one year for the excessive DUI and six months for injury to child, suspended the sentence, and placed Bell on two years of supervised probation. (R., pp.110, 113-16.) Bell timely appealed to the district court. (R., pp.117-19, 125-27.)

On intermediate appeal Bell argued, among other things, that the magistrate court erred in finding that the arrest was valid because the DUI had been committed in the presence of law enforcement. (R., pp.141-51.) Bell argued that the collective knowledge doctrine and Clarke are separate and distinct analyses: the collective knowledge doctrine relates only to the underlying reasonable suspicion or probable cause, whereas Clarke focuses solely on whether a

misdemeanor crime is committed in the presence of the arresting officer. (R., pp.150-51.) In his view, the state failed to satisfy either. The state responded, arguing that the collective knowledge doctrine applied and could be used to establish that the crime was committed in the presence of law enforcement. (R., pp.153-58.) After hearing argument from the parties, the district court took the matter under advisement. (See R., pp.160-62.)

The district court reversed the magistrate's order denying Bell's motion to suppress. (R., pp.163-74.) The district court phrased the "crucial question" presented on intermediate appeal as "whether an arrest is lawful when one officer observes a misdemeanor and reports his findings to another officer, who did not witness the misdemeanor but then makes the arrest." (R., p.169.) After discussing two recent decisions by this Court, the district court concluded that "the collective knowledge doctrine does not allow a peace officer to make a warrantless arrest for a DUI committed outside of the officer's presence." (R., p.171.) The DUI, which was committed in the presence of Officer Pallas, had not been committed in the presence of the arresting officer—Officer Murphy. (R., p.172.) Therefore, because Officer Murphy arrested Bell for a completed misdemeanor committed outside *his* presence the arrest was unlawful. (R., p.172.) In the district court's view, "the collective knowledge doctrine may provide sufficient facts to justify a warrantless arrest but Article I, Section 17 of the Idaho State Constitution prohibits such a warrantless arrest." (R., p.173.) The district court reversed the magistrate's denial of Bell's motion to suppress. (R., p.174.)

The state timely appealed from the district court's decision on intermediate appeal. (R., pp.175-76, 197-99.)

ISSUE

Did the district court err by reversing the magistrate court's denial of Bell's motion to suppress when it concluded that Article I, Section 17 of the Idaho Constitution prohibits a warrantless arrest for a misdemeanor committed in the presence of an officer other than the arresting officer?

ARGUMENT

The District Court Erred On Intermediate Appeal When It Reversed The Magistrate's Denial Of Bell's Motion To Suppress By Concluding That Article I, Section 17 Of The Idaho Constitution Prohibits Warrantless Arrests For Misdemeanors Committed In The Presence Of An Officer Other Than The Arresting Officer

A. Introduction

The district court erred when it reversed the magistrate court's denial of Bell's motion to suppress on intermediate appeal. In Clarke, this Court held that Article I, Section 17 of the Idaho Constitution prohibits warrantless arrests for completed misdemeanors that were not committed in the presence of an officer. The magistrate court correctly concluded that the presence requirement can be satisfied by the collective observations of law enforcement officers involved in the matter. Where, as here, one officer observes the commission of a misdemeanor offense and communicates those observations to another officer who ultimately effectuates the arrest, Clarke has been satisfied and the arrest does not violate the Idaho Constitution. Because Officer Pallas observed Bell driving while under the influence of alcohol and communicated that observation to Officer Murphy directly and through dispatch, Officer Murphy's subsequent arrest of Bell for misdemeanor DUI was a lawful arrest for a misdemeanor committed in the presence of an officer. Accordingly, the district court erred when it reversed the magistrate court denial of Bell's motion to suppress.

B. Standard Of Review

For an appeal from the district court sitting in its appellate capacity over a case from the magistrate division, this Court reviews the magistrate court record to determine whether there is substantial and competent evidence to support the magistrate court's findings of fact and whether the magistrate court's conclusions of law follow from those findings. State v. Korn, 148 Idaho

413, 415, 224 P.3d 480, 482 (2009). However, as a matter of appellate procedure, the disposition of the appeal will affirm or reverse the decision of the district court. State v. Trusdall, 155 Idaho 965, 968, 318 P.3d 955, 958 (Ct. App. 2014). Thus, this Court will review the magistrate court’s findings and conclusions, whether the district court affirmed or reversed the magistrate court and the basis therefor, and either affirm or reverse the district court. Id.

When a decision on a motion to suppress is challenged, the appellate court accepts the trial court’s findings of fact that are supported by substantial evidence, but freely reviews the application of constitutional principles to those facts. State v. Klingler, 143 Idaho 494, 496, 148 P.3d 1240, 1242 (2006). “At a suppression hearing, the power to assess the credibility of witnesses, resolve factual conflicts, weigh evidence, and draw factual inferences is vested in the trial court.” State v. Pieper, 163 Idaho 732, 734, 418 P.3d 1241, 1243 (Ct. App. 2018).

C. The Magistrate Court Correctly Determined That Bell’s Arrest Was Lawful Because The Crime Occurred In The Presence Of An Officer

Both the Fourth Amendment to the U.S. Constitution and Article I, Section 17 of the Idaho Constitution prohibit unreasonable seizures. Generally, an officer may conduct a warrantless arrest based upon probable cause that the individual has committed a crime. State v. Williams, 162 Idaho 56, 66, 394 P.3d 99, 109 (Ct. App. 2016); State v. Lee, 162 Idaho 642, 649, 402 P.3d 1095, 1102 (2017). However, in Clarke, this Court held that Article I, Section 17 of the Idaho Constitution prohibits “warrantless arrests for completed misdemeanors” that did not occur in an officer’s presence. Clarke, 165 Idaho at 399, 446 P.3d at 457. Since Clarke, this Court has not explicitly held whether the misdemeanor must occur in *an* officer’s presence or the *arresting* officer’s presence.

Idaho courts have used broad language to describe that the Idaho Constitution requires that the misdemeanor offense be committed in the presence of *an* officer. See Reagan v. Idaho Transp. Dep't, ___ Idaho ___, ___, 502 P.3d 1027, 1033-34 (2021), as amended (Mar. 23, 2021) (“the framers of the Idaho Constitution did not intend to allow warrantless arrests for misdemeanors committed outside *an* officer’s presence”) (“there was no exception at the time of Idaho’s statehood to the warrant requirement for misdemeanors committed outside *an* officer’s presence”) (recognizing “the framers’ intention that misdemeanors completed outside *an* officer’s presence require a warrant for an arrest”) (emphases added); see also State v. Porter, 169 Idaho 455, ___, 497 P.3d 209, 212 (Ct. App. 2021) (“warrantless arrest for a misdemeanor offense completed outside *an* officer’s presence is unconstitutional under Clarke”) (emphasis added).

Additionally, this Court has recognized that the collective knowledge doctrine may be used to provide probable cause for a valid, warrantless arrest, even in the face of a Clarke challenge. See Amstutz, 169 Idaho at ___, 492 P.3d at 1107-09 (recognizing applicability of collective knowledge doctrine but ultimately concluding it was not satisfied under the facts of that case). Generally, the collective knowledge doctrine allows for the collective knowledge and information of all the officers involved in an investigation to be taken together to determine whether probable cause exists. State v. Rubio, 115 Idaho 873, 876, 771 P.2d 537, 540 (Ct. App. 1989). The collective knowledge doctrine eliminates the requirement of personal knowledge, though it does not eliminate the requirement of some knowledge. Amstutz, 169 Idaho at ___, 492 P.3d at 1108 (citing United States v. Hensley, 469 U.S. 221, 232-33 (1985)). Just as a non-arresting officer’s knowledge may contribute probable cause, a non-arresting officer’s

observation of a misdemeanor committed in his presence should provide a basis for an arrest by any officer.

This Court should adopt an interpretation of the presence requirement that permits warrantless misdemeanor arrests where the offense was committed in the presence of an officer and that officer's observations were communicated to the arresting officer. There is no need for an additional requirement that an arresting officer have observed the offense. Rather, the better rule is "when a misdemeanor is committed in the presence of a police officer and information of such is promptly placed on the police radio or otherwise communicated and a description of the misdemeanor given, the arrest of the misdemeanor by another police officer within a reasonable time of receipt of the information is valid." See State v. Lyon, 706 P.2d 516, 520 (N.M. Ct. App. 1985); see also Henry v. Comm'r of Pub. Safety, 357 N.W.2d 121, 122-23 (Minn. Ct. App. 1984) ("The 'police team' qualification of the presence requirement permits officers who are working together to combine their collective perceptions to satisfy the presence requirement; thus, the arresting officer does not need to witness all of the elements of the misdemeanor offense."). Such an interpretation is consistent with the constitutional concerns supporting the presence requirement generally and provides a workable standard that does not unduly hinder law enforcement.

First, the presence requirement operates as a limitation on law enforcement by prohibiting warrantless arrests for lower-level offenses that an officer did not observe. See Clarke, 165 Idaho at 397-99, 446 P.3d at 455-57. That interest is furthered by requiring that the offense have occurred in the presence of any officer involved in the matter, regardless of which officer ultimately places the defendant under arrest. Where an officer observes the commission of the offense and communicates that observation to the arresting officer, probable cause is not

based on a citizen-witness's third-party information but instead based on law enforcement's own observation of the offense being committed. Generally, officers may rely on information supplied by other officers, including dispatch personnel, and act on such information at face value. State v. Carr, 123 Idaho 127, 130, 844 P.2d 1377, 1380 (Ct. App. 1992); Wilson v. Idaho Transp. Dep't, 136 Idaho 270, 275-76, 32 P.3d 164, 169-70 (Ct. App. 2001). Allowing the observing officer, who could constitutionally conduct a warrantless arrest himself, to communicate his observations and direct another officer to effectuate that arrest does not infringe upon the interests sought to be protected or the limitations imposed by Article I, Section 17's presence requirement.

Additionally, a reasonable interpretation of the presence requirement takes into account the reality that law enforcement officers communicate with each other and often work together in investigating offenses and conducting arrests. Restricting the presence requirement to only the officer who ultimately conducts the arrest creates unnecessary complications without any additional constitutional protection or justification.

For example, imagine a common scenario: a DUI stop. Suppose Officer One observes a DUI and conducts a traffic stop and Officer Two arrives to provide backup assistance. And suppose that during the course of the stop the officers discover that the vehicle's passenger has a warrant for his arrest. At that point, two people—the driver and the passenger—are subject to arrest and there are two officers on scene. Under a broad interpretation of the presence requirement, either officer could lawfully place either vehicle occupant under arrest based on probable cause. However, under a narrow interpretation, if Officer Two arrests the driver while Officer One arrests the passenger, instead of the other way around, the driver's arrest is unlawful. There is simply no constitutional justification for such a result. Or imagine that Officer One tells

the driver he is under arrest as Officer Two places him in handcuffs,⁴ or vice versa. Has a constitutional violation occurred? A reasonable interpretation of the presence requirement avoids this unnecessary splitting-of-hairs analysis by asking the simple question: was the misdemeanor offense committed in the presence of *an* officer? In this scenario, where the answer is yes—the DUI offense was committed in the presence of Officer One—the warrantless arrest of the driver by either officer on the scene would satisfy Clarke and Article I, Section 17 of the Idaho Constitution.

Moreover, there are times when it might even be preferable for an officer other than the one who observed the offense to make the arrest, such as when: the officer who observes the offense has a drug dog in the vehicle, cannot transport a defendant safely with the canine in the car, and must remain available for drug dog requests;⁵ the officer who observes the offense is unable to safely conduct a stop or pursue a vehicle and relays the information to another officer that is able to do so;⁶ the officer who observes the offense has crossed into another jurisdiction and contacts local law enforcement to conduct the arrest;⁷ the officer who observes the offense is in an unmarked vehicle and relays that information to an officer in a police vehicle to conduct the stop and arrest;⁸ a plain clothes officer observes an offense and relays that information to a uniformed officer to conduct the arrest;⁹ or, as occurred here, an off-duty officer observes an offense and relays that information to an on-duty officer to conduct the arrest.¹⁰

⁴ See Henry, 357 N.W.2d at 122-23.

⁵ See Lyon, 706 P.2d at 519-20.

⁶ See State v. Bryant, 678 S.W.2d 480 (Tenn. Crim. App. 1984).

⁷ See State v. Ash, 12 S.W.3d 800, 806 (Tenn. Crim. App. 1999) (citing State v. Maxie Lewis Hunter, 1989 WL 119464 (Tenn. Crim. App. Oct. 13, 1989) (unpublished)).

⁸ See Daniel v. Vill. of Royal Palm Beach, 889 So. 2d 988, 990 (Fla. Dist. Ct. App. 2004).

⁹ See Brown v. State, 442 N.E.2d 1109, 1115 (Ind. 1982).

¹⁰ See State v. Boatman, 901 So. 2d 222, 224-25 (Fla. Dist. Ct. App. 2005).

Under an interpretation of the presence requirement where the presence requirement is met by any officer, not just the one who effectuates the arrest, the district court erred when it concluded that Bell's warrantless arrest violated the Idaho Constitution. The district court based its decision on two recent Idaho Supreme Court decisions: Clarke and Reagan. In Clarke, a woman reported to an officer that she had been groped earlier in the day by Clarke. 165 Idaho at 394-95, 446 P.3d at 452-53. The officer located Clarke and arrested him for misdemeanor battery. Id. at 395, 446 P.3d at 453. Because the misdemeanor offense had not been committed in the presence of an officer, this Court determined the warrantless arrest was unlawful. Id. at 399-400, 446 P.3d at 457-58. In Reagan, a concerned citizen called in a report of a possible intoxicated driver. ___ Idaho at ___, 502 P.3d at 1030. The citizen followed the vehicle until it pulled into a driveway. Id. An officer was dispatched to the residence and made contact with the driver; after she failed the standard field sobriety tests, the officer arrested her for misdemeanor DUI. Id. Relying on Clarke, this Court concluded the warrantless arrest was unlawful because the misdemeanor offense had not been committed in the presence of an officer. Id. at ___, 502 P.3d at 1034.

The district court analogized Officer Pallas' role in this case to the victim and concerned citizen reporting parties in Clarke and Reagan. (R., pp.171-72.) "Officer Pallas provided credible information to Officer Murphy, much like the citizens in *Clarke* and *Reagan* provided to the arresting officers in those cases. Just like [the] crimes in *Clarke* and *Reagan*, the misdemeanors in this case did not occur in Officer Murphy's presence." (R., p.172 (footnote omitted).) "[J]ust like the arresting officers in *Clarke* and *Reagan*, Officer Murphy arrested Bell for a completed misdemeanor committed outside his presence." (R., p.172.) Therefore, the district court concluded "[t]he result must be the same"—the arrest was unlawful. (R., p.172.)

The district court recognized that “the collective knowledge doctrine may provide sufficient facts to justify a warrantless arrest,” but concluded that “Article I, Section 17 of the Idaho State Constitution prohibits such an arrest.” (R., p.173.)

The district court overlooked the one key factual distinction between these cases that makes all the difference: in this case, unlike in Clarke and Reagan, the crime was committed in the presence of an officer. The reporting witness was Officer Pallas, not a citizen witness. As the court found, Officer Pallas observed Bell operate a motor vehicle while under the influence of alcohol. (R., p.164.) Officer Pallas communicated his observations of the potential DUI directly to Officer Murphy. (R., pp.164-65.) Then, Officer Pallas called dispatch and provided updates about Bell’s location, which dispatch passed on to Officer Murphy. (R., p.165.) Based on Officer Pallas’ observations, Officer Murphy responded to that location, made contact with Bell, observed additional signs of intoxication, and arrested Bell for misdemeanor DUI. (R., pp.165-66.) Unlike in Clarke and Reagan, Bell’s arrest was supported by *an officer’s* personal observation of Bell committing a misdemeanor offense. Because Bell was arrested for a misdemeanor committed in the presence of Officer Pallas, his warrantless arrest was lawful.

Although the district court declined to reach the issue, Bell’s warrantless arrest for misdemeanor DUI was also supported by probable cause. “Probable cause to arrest deals with probabilities that a crime has been committed, not absolute certainty, and an officer is allowed to use all his senses and information from reliable sources to determine whether a crime has been committed.” Carr, 123 Idaho at 130, 844 P.2d at 1380. Further, an officer is “permitted to ‘draw reasonable inferences from the available information in light of knowledge that he has gained from his experience and training’ in determining whether he ha[s] probable cause” to conduct an

arrest. Amstutz, 169 Idaho at ____, 492 P.3d at 1109 (quoting State v. Kysar, 116 Idaho 992, 993, 783 P.2d 859, 860 (1989)).

Officer Murphy possessed probable cause to arrest Bell for misdemeanor DUI. Officer Murphy received information, both from Officer Pallas directly and through dispatch, that Officer Pallas observed Bell and believed he was intoxicated. (R., pp.164-65.) Bell was unsteady and swayed on his feet, had difficulty walking, and appeared confused. (R., p.164.) Bell had difficulty locating his vehicle before he got in it and drove away on public streets. (R., p.164.) When Officer Murphy arrived at Bell's location, his vehicle was warm to the touch. (R., p.165.) Bell and a minor that had been with him in the vehicle both confirmed that Bell had just returned from the store. (R., p.166.) Bell admitted to consuming five alcoholic beverages before driving. (R., p.166.) Officer Murphy observed that Bell was unsteady on his feet and smelled of alcohol. (R., p.166.) Bell either failed or was unable to complete each of the standard field sobriety tests Officer Murphy administered. (R., p.166.) These facts were sufficient to provide Officer Murphy with probable cause to believe Bell had committed a DUI.

Officer Murphy's warrantless arrest of Bell for a misdemeanor DUI committed in Officer Pallas' presence was a lawful arrest, supported by probable cause, that did not violate his rights under either the United States or Idaho Constitutions. Accordingly, the district court erred when it reversed the magistrate court's denial of Bell's motion to suppress.

CONCLUSION

The state respectfully requests this Court to reverse the district court's order on intermediate appeal reversing the magistrate court's denial of Bell's motion to suppress.

DATED this 15th day of March, 2022.

/s/ Kacey L. Jones
KACEY L. JONES
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 15th day of March, 2022, served a true and correct copy of the foregoing BRIEF OF APPELLANT to the attorney listed below by means of iCourt File and Serve:

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