

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)
) No. 49210-2021
 Plaintiff-Appellant,)
) Twin Falls County Case No.
 v.) CR42-21-4019
)
 CAMILLE J. POOL,)
)
 Defendant-Respondent.)
 _____)

REPLY BRIEF OF APPELLANT

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

HONORABLE BENJAMIN J. CLUFF
District Judge

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ARGUMENT

The District Court Erroneously Concluded That Pool Did Not Consent To Probation Searches Of Her Residence

A. Introduction

The magistrate informed Pool that, as a condition of probation, she was “required to waive [her] 4th Amendment right against search and seizure.” (Exhibits, p. 20 (Sentencing Tr., p. 15, Ls. 5-6).) The judgment of conviction placing Pool on probation for misdemeanor DUI provided, “Defendant specifically waives his/her 4th Amendment right to warrantless search of his/her person, vehicle, or residence by any law enforcement or probation officer.” (Exhibits, p. 5; see R., p. 81.) Because Pool’s Fourth Amendment waiver as a condition of probation constituted consent to warrantless searches of her residence, it was immaterial that she did not also specifically waive her rights against unreasonable search and seizure under Article 1, § 17 of the Idaho Constitution. (Appellant’s brief, pp. 5-7.) The district court erred by holding otherwise.

Pool first argues that the state is requesting declaration of a “new standard” that does not evaluate the terms of probation. (Respondent’s brief, pp. 7-9.) This argument is incorrect. The state is requesting application of well-established standards whereby the Court treats a waiver of Fourth Amendment rights as a consent.

Pool also argues that her Fourth Amendment waiver is not alone enough to constitute a consent to warrantless searches, and a waiver of rights under the Idaho Constitution is also required before consent is given. (Respondent’s brief, pp. 10-13.) Pool’s analysis, and the district court’s holding, is flawed. Because the Fourth Amendment waiver constituted a consent to warrantless searches of her residence, it is immaterial that

the magistrate court did not also obtain a specific waiver of rights under the Idaho Constitution.

Consent for warrantless probation searches was granted in this case when Pool waived her Fourth Amendment rights as a condition of probation. The lack of a specific waiver of rights under Article 1, § 17 of the Idaho Constitution did not, as the district court concluded, result in no consent having been given.

B. Standard Of Review

“[T]his Court may undertake a free review of the district court’s determination as to whether constitutional requirements have been satisfied in light of the facts found.” State v. Pachosa, 160 Idaho 35, 38, 368 P.3d 655, 658 (2016) (quotation marks omitted).

C. A Specific Waiver Of Rights Under The Idaho Constitution Was Not Required For Pool To Grant Valid Consent To Search

“Our case law on Fourth Amendment waivers has consistently and correctly viewed them under the rubric of *consent* to searches” State v. Maxim, 165 Idaho 901, 907, 454 P.3d 543, 549 (2019) (emphasis original). See also State v. Jaskowski, 163 Idaho 257, 260, 409 P.3d 837, 840 (2018) (“scope of consent” is the “critical inquiry” to determine reasonableness of probation searches); State v. Gawron, 112 Idaho 841, 843, 736 P.2d 1295, 1297 (1987) (upholding probation search under consent exception to warrant requirement). “[C]ourts evaluating the scope of the Fourth Amendment waiver must look to the language used in the condition of probation in order to determine whether the search was objectively reasonable.” Jaskowski, 163 Idaho at 261, 409 P.3d at 841. The Court should “look to the reasonableness of the government’s actions considering ‘all the circumstances of the particular governmental invasion of a citizen’s personal security.’”

Maxim, 165 Idaho at 908, 454 P.3d at 550 (quoting Terry v. Ohio, 392 U.S. 1, 19 (1968)). This analysis will generally be based on the determination of “whether the search in this instance ... exceeded the scope of [the probationer’s] Fourth Amendment waiver.” State v. Turek, 150 Idaho 745, 749, 250 P.3d 796, 800 (Ct. App. 2011). See also State v. Hansen, 167 Idaho 831, 837, 477 P.3d 885, 891 (2020) (“Sergeant Sproat’s search of Hansen’s vehicle was well within the scope of Hansen’s Fourth Amendment waiver.”). “The common guiding principle underlying our decisions ... is that courts evaluating the scope of the Fourth Amendment waiver must look to the language used in the condition of probation in order to determine whether the search was objectively reasonable.” Jaskowski, 163 Idaho at 261, 409 P.3d at 841.

The search of Pool’s residence after she missed drug and alcohol testing and was discharged from treatment was reasonable because it was within the scope of her consent. Her waiver of Fourth Amendment rights, under the facts of this case, created consent to conduct warrantless searches of Pool’s residence. (See Appellant’s brief, pp. 4-7.) The lack of a specific waiver of rights under Article 1, § 17 of the Idaho Constitution did not negate Pool’s consent to warrantless searches of her residence. It was not reasonable to interpret Pool’s Fourth Amendment waiver, given as a condition of probation, as not consenting to any searches. See State v. Purdum, 147 Idaho 206, 210, 207 P.3d 182, 186 (2009) (consent to urinalysis testing impliedly included consent to detention because “[a]ny other reading would render the provision a nullity” (quotation marks omitted)). The district court’s holding that a specific Article 1, § 17 waiver was a condition precedent to consent is unsupported by law, renders the Fourth Amendment waiver probation condition a nullity,

and is contrary to precedent holding that a Fourth Amendment waiver as a condition of probation constitutes consent to search.

In arguing the district court correctly concluded she had not consented to any warrantless searches as a condition of probation when she waived her Fourth Amendment rights, Pool first contends the state is proposing a “new standard” by looking at what a reasonable person would have understood the scope of consent was, and contends the proper inquiry is into the language used in the waiver. (Respondent’s brief, pp. 7-9.) This argument misconstrues the state’s argument on appeal. The state’s argument is that the “reasonable reading” of Pool’s probationary Fourth Amendment waiver provides consent to conduct warrantless searches of Pool’s residence, and that the district court’s reading of the scope of consent as not including warrantless searches because there is no specific waiver of rights under the Idaho Constitution is unreasonable. (Appellant’s brief, pp. 5-7.) The state is not advocating any “new standard.” It is advocating for application of well-established standards.

Moreover, Pool’s argument is unclear how application of what she deems is different standards would require a different result in this case. Determination of what a reasonable person would believe the scope of consent was would necessarily start with the language of the waiver. (See Appellant’s brief, pp. 5-6 (analogizing, based on precedent, a probation agreement to a contract).) The state is not advocating any standard that ignores the plain language of the waiver when determining the scope of consent.

Pool next echoes the district court’s analysis by contending that her Fourth Amendment waiver did not result in consent to conduct any warrantless searches because she did not expressly waive her search and seizure rights under the Idaho Constitution.

(Respondent’s brief, pp. 10-13.) The flaw in this analysis is that Pool’s Fourth Amendment waiver constituted consent to warrantless searches of her residence as a condition of probation. See Hansen, 167 Idaho at 837, 477 P.3d at 891 (“Sergeant Sproat’s search of Hansen’s vehicle was well within the scope of Hansen’s Fourth Amendment waiver.”). Her *consent* to such warrantless searches was not contingent upon an Article 1, § 17 waiver also being given. Pool’s argument that she could waive her Fourth Amendment rights as a condition of probation without consenting to any warrantless searches defies logic and this Court’s precedents.

The actions of the probation officers and law enforcement officers in conducting a warrantless search were reasonable. Pool’s waiver of her Fourth Amendment rights granted consent to warrantless searches. Such consent was not contingent upon an additional specific waiver of her rights against the same searches under the Idaho Constitution. The district court erred when it concluded that a waiver of Article 1, § 17 rights was a prerequisite of a valid consent.

CONCLUSION

The state respectfully requests this Court to reverse the district court’s order of suppression and to remand for further proceedings.

DATED this 30th day of June, 2022.

/s/ Kenneth K. Jorgensen
KENNETH K. JORGENSEN
Deputy Attorney General

CERTIFICATE SERVICE

I HEREBY CERTIFY that I have this 30th day of June, 2022, served a true and correct copy of the foregoing REPLY BRIEF OF APPELLANT to the attorney listed below by means of iCourt File and Serve:

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