

IN THE SUPREME COURT OF THE STATE OF IDAHO
Docket No. 51195/51196

STATE OF IDAHO,	)	
	)	
Plaintiff-Respondent,	)	Boise, April 2026 Term
	)	
v.	)	Opinion filed: September 22, 2026
	)	
SALWAN YOUSIF AL-MAFRACHI,	)	Melanie Gagnepain, Clerk
	)	
Defendant-Appellant.	)	
	)	

Appeal from the District Court of the Fourth Judicial District of the State of Idaho, Ada County. Lynn Norton, District Judge, and Nancy Baskin, District Judge.

The district court's order denying Appellant's motion to suppress is affirmed.

Erik R. Lehtinen, State Appellate Public Defender, Boise, for Appellant. Andrea W. Reynolds argued.

Raúl R. Labrador, Idaho Attorney General, Boise, for Respondent. Kacey L. Jones argued.

BEVAN, Chief Justice.

This appeal concerns the district court's denial of a defendant's motion to suppress evidence that he claims was illegally seized during an unconstitutional search of his backpack. Salwan Yousif Al-Mafrachi was riding as a passenger in a car when law enforcement stopped the car for a traffic infraction. During the stop, law enforcement discovered a large quantity of illegal narcotics in a backpack at Al-Mafrachi's feet. Al-Mafrachi claimed the backpack belonged to his girlfriend, but law enforcement did not believe him and arrested him on possession charges. The officers later learned that Al-Mafrachi, based on the terms of his felony probation, was subject to a waiver of his Fourth Amendment rights. Al-Mafrachi was originally charged with crimes in two separate cases, which the district court later consolidated for trial.

Prior to trial, Al-Mafrachi brought a motion to suppress the evidence discovered in the backpack, arguing that the search of his backpack and the vehicle lacked probable cause and were unconstitutional. The district court denied the motion, concluding that Al-Mafrachi lacked

standing to challenge the search because he waived his Fourth Amendment rights when he entered into a probation agreement with the State in an earlier case. Following the denial of his motion to suppress, an Ada County jury found Al-Mafrachi guilty on multiple drug-related counts. The district court sentenced him to a unified term of fifteen years in prison with the first five years fixed.

Al-Mafrachi now appeals, claiming that the district court erred by ruling he did not have standing to challenge the search of his backpack based on the Fourth Amendment waiver. For the reasons explained below, we affirm the district court's decision, overruling this Court's holding in *State v. Maxim*, 165 Idaho 901, 454 P.3d 543 (2019).

I. FACTUAL AND PROCEDURAL BACKGROUND

Around 1:00 a.m. on February 6, 2023, Officer Wilson Moss of the Boise Police Department observed a Buick Rendezvous idling at a motel with its headlights on. Officer Moss ran the vehicle's license plate and learned that the vehicle's registration had been suspended for lack of insurance. He followed the vehicle once it began moving and observed that the driver failed to use a turn signal when making a right turn. Officer Moss then initiated a traffic stop based on the suspended registration and failure to use a turn signal.

There were two individuals in the car: the driver, Bobby Frisbee, and Salwan Yousif Al-Mafrachi. Officer Moss was able to identify Al-Mafrachi when Al-Mafrachi produced an Idaho identification card from a wallet inside the backpack at his feet. Officer Moss then completed "radio and computer checks" of Frisbee and Al-Mafrachi and learned that Al-Mafrachi was on felony probation and had been previously charged with aggravated assault, multiple batteries, and drug charges. However, Officer Moss was unaware that Al-Mafrachi had agreed to waive his Fourth Amendment rights as a condition of probation. Officer Moss then requested a K-9 officer to perform a dog sniff.

While Officer Moss was in his patrol car, Al-Mafrachi exited the vehicle on his own accord. This prompted Officer Moss to approach the vehicle out of concern for the safety of the officer assisting him with the stop, who was talking to Frisbee. Al-Mafrachi reentered the vehicle and closed the door as Officer Moss approached the car. Officer Johnson arrived at the scene with his drug dog, Rico, and conducted an exterior sweep, which resulted in a positive alert for narcotics. Officer Johnson communicated Rico's alert to Officer Moss with a "thumbs-up."

Officer Moss testified that, based on the positive alert and the suspicious conduct of Al-Mafrachi during the traffic stop—i.e., exiting the vehicle without instruction—Officer Moss believed he had probable cause to conduct a search of the vehicle. When asked, Al-Mafrachi denied ownership of the backpack and left it in Frisbee’s car before Officer Moss began the search. As part of the vehicle search, Officer Moss searched the backpack and found “approximately 95 dosages of 17 different types” of controlled and uncontrolled substances. The material in the backpack included: several types of fentanyl, suboxone strips, Xanax, methamphetamine, marijuana, THC vape cartridges, “moon rocks,”¹ LSD, a digital scale, and small plastic baggies. In addition, Officer Moss found a pay stub in the backpack belonging to “Lindsay Cooper.” Al-Mafrachi stated that Cooper was his girlfriend.

In case number CR01-23-3590, the State charged Al-Mafrachi with three counts of possession of a controlled substance, a felony under Idaho Code section 37-2732(c); two counts of possession of a controlled substance, a misdemeanor under Idaho Code section 37-2732(c); and one count of possession of drug paraphernalia, a misdemeanor under Idaho Code section 37-2734A. The magistrate court dismissed two of the felony possession counts upon determining there was not probable cause to believe Al-Mafrachi committed the crimes.

In case number CR01-23-9618, the State charged Al-Mafrachi with two counts of possession of a controlled substance with the intent to deliver, a felony under Idaho Code section 37-2732(a)(1)(A); one count of possession of a controlled substance with intent to deliver, a felony under Idaho Code section 37-2732(a)(1)(B); and two counts of possession of a controlled substance, a felony under Idaho Code section 37-2732(c). The State then added a persistent violator enhancement based on Al-Mafrachi’s prior felony convictions, pursuant to Idaho Code section 19-2514.

The two cases were later consolidated by the district court. Al-Mafrachi filed a motion to suppress the evidence seized from the search of his backpack based on alleged violations of his rights under the Fourth Amendment to the United States Constitution and Article I, section 17 of the Idaho Constitution. The State objected to the motion and argued that Al-Mafrachi lacked standing to challenge the search of the backpack based on the waiver in his probation agreement.

¹ Officer Moss explained that a “moon rock” is a “brownish organic-looking substance that is a highly concentrated form of marijuana”

The district court denied the motion to suppress at a hearing on August 4, 2023.² The court acknowledged that it read the preliminary hearing transcript and the briefs and watched the video recording of the traffic stop. Relying on *State v. Dorff*, 171 Idaho 818, 526 P.3d 988 (2023), the court explained that standing for Fourth Amendment purposes requires a defendant to have “either a privacy interest or a proprietary interest in the place searched.” The court found that Al-Mafrachi did not have a basis to claim any interest in the vehicle and lacked standing under *Dorff* to challenge the search of the vehicle. It then analyzed Al-Mafrachi’s privacy interest in the backpack and whether he had abandoned it under the factors in *State v. Porter*, 170 Idaho 391, 398, 511 P.3d 273, 280 (Ct. App. 2022). Based on the *Porter* factors (ownership, possession, control, ability to regulate access to the evidence, historical use of the items seized, and the totality of the surrounding circumstances) and “conflicting” evidence, the district court concluded that abandonment did not apply.

The court proceeded to address the Fourth Amendment waiver contained in Al-Mafrachi’s probation agreement, and whether that waiver eliminated that Al-Mafrachi’s standing to “contest the search of the vehicle or its contents.” That condition of Al-Mafrachi’s probation agreement states:

Defendant agrees to waive his Fourth Amendment rights applying to search and seizure as provided by the United States Constitution, and to submit to a search by his probation officer or any law enforcement officer of his person, residence, vehicle or other property upon request. Defendant shall not reside with any person who does not consent to such a search.

The court reasoned that, under *Rakas v. Illinois*, 439 U.S. 128 (1978), Al-Mafrachi did not have a subjective expectation of privacy, and that society would not be willing to “recognize the expectation as reasonable given someone’s [Fourth] Amendment waiver.” After the cases were consolidated and assigned to Judge Baskin, Al-Mafrachi filed a “Motion to Exclude Evidence, Reconsider Motion to Suppress, and Dismiss Case,” in which he again argued that the search of the backpack was unconstitutional and unreasonable. The district court denied that motion as well.

Following a trial, the jury found Al-Mafrachi guilty of four counts of possession of a controlled substance; two counts of possession of a controlled substance with intent to deliver; and one count of possession of drug paraphernalia. The jury also found that Al-Mafrachi was a

² Judge Lynn Norton was the original district judge on this case, and she made the initial ruling denying Al-Mafrachi’s motion to suppress. Judge Nancy Baskin presided over the remainder of the case, including the jury trial and sentencing.

persistent violator. Based thereon, the district court sentenced Al-Mafrachi to a unified term of fifteen years with five years fixed.

II. STANDARDS OF REVIEW

“When this Court reviews a trial court’s denial of a motion to suppress, we employ a bifurcated standard of review.” *State v. Grewell*, 175 Idaho 256, ___, 564 P.3d 1189, 1191 (2025) (citing *State v. Ramos*, 172 Idaho 764, 770, 536 P.3d 876, 882 (2023)). “This Court accepts ‘the trial court’s findings of fact unless they are clearly erroneous’ but freely reviews ‘the trial court’s application of constitutional principles to the facts found.’” *Id.* (quoting *Ramos*, 172 Idaho at 770, 536 P.3d at 882).

III. ANALYSIS

A. Al-Mafrachi lacked standing to challenge the search of his backpack under the Fourth Amendment.

The district court concluded that Al-Mafrachi lacked standing to challenge the search of his backpack under the Fourth Amendment because of his probation waiver. At the pretrial hearing on the suppression motion, the court explained:

Since [Al-Mafrachi] had a [Fourth] Amendment waiver, this [c]ourt finds that he cannot assert his privacy interest as a basis for the law enforcement officer not to search the backpack And so because of that, I find that Mr. Al-Mafrachi actually does not have standing to contest the search of the vehicle or its contents.

. . . .

. . . I do not find that given the [Fourth] Amendment waiver, Mr. Al-Mafrachi actually had a subjective expectation of privacy in the backpack that he is challenging the search for. And I do not find that society is willing to recognize the expectation as reasonable given someone’s [Fourth] Amendment waiver, so I do not find that he had a reasonable expectation of privacy in the backpack.

On appeal, Al-Mafrachi argues that the district court erred by treating the probation waiver as a categorical preclusion to standing. He claims that the court “should have analyzed whether the search of Mr. Al-Mafrachi’s backpack was reasonable based on the Fourth Amendment waiver he agreed to as a term of probation.” He correctly notes that the police were not aware of his waiver condition before they executed the search; thus, using the waiver as a post hoc justification of an unreasonable search is improper under *State v. Maxim*, 165 Idaho 901, 908, 454 P.3d 543, 550 (2019).

The State concedes that, under *Maxim*, the district court erred when it concluded Al-Mafrachi lacked standing to raise a Fourth Amendment challenge based on his waiver alone.

Nevertheless, the State argues that *Maxim* should be overruled because it conflates consent and waiver as interchangeable concepts. The State distinguishes these terms by suggesting that consent is relevant to the reasonableness of a search, while waiver is relevant to standing. The State argues that a defendant lacks a reasonable expectation of privacy when he waives his Fourth Amendment rights as a condition of probation. As a result, such a defendant does not have standing to raise a Fourth Amendment challenge. We agree.

The Fourth Amendment protects “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures[.]” U.S. Const. amend IV. “Under the Fourth Amendment, a search conducted without a warrant is ‘presumptively unreasonable.’” *State v. Hoskins*, 165 Idaho 217, 220, 443 P.3d 231, 234 (2019) (quoting *State v. Hansen*, 151 Idaho 342, 346, 256 P.3d 750, 754 (2011)). “To show a violation of the Fourth Amendment’s prohibition on unreasonable searches, the defendant must come forward with evidence” that: (1) “there was a Fourth Amendment search,” (2) the defendant has “standing to challenge the search,” and (3) “the search was illegal.” *Id.* at 220–21, 443 P.3d at 234–35 (citation modified). In this context, “standing” is simply “shorthand for the question of whether the moving party had a legitimate expectation of privacy in the area that was searched.” *Id.* at 221, 443 P.3d at 235 (citation modified); *see also Byrd v. United States*, 584 U.S. 395, 410–11 (2018) (explaining that this kind of Fourth Amendment standing should not be confused with Article III standing).

Probationers have a unique relationship with the Fourth Amendment because “they do not enjoy the absolute liberty to which every citizen is entitled.” *Griffin v. Wisconsin*, 483 U.S. 868, 874 (1987) (citation modified). Rather, they only have claim upon a “conditional liberty,” which is “properly dependent on observances of special probation restrictions.” *Id.* (citation modified). These restrictions, memorialized in the probation agreement³ that probationers sign as a condition of probation, determine the scope of the probation. *See State v. Jaskowski*, 163 Idaho 257, 260, 409 P.3d 837, 840 (2018) (explaining that resolution of probationer search cases depends on the specific language of the waiver at issue).

In *State v. Gawron*, for example, the police performed a warrantless search of a probationer’s residence after learning that he may have been involved in several burglaries. 112

³ This Court and others have unartfully referred to these agreements as Fourth Amendment “waivers” even when these agreements do not include a waiver of a probationer’s Fourth Amendment rights. These “consent” agreements are not properly referred to as “waivers,” as we will explain below. Accordingly, this opinion will refer to “probation agreements” in the general sense as such, unless the agreement itself explicitly includes a waiver provision.

Idaho, 841, 842, 736 P.2d 1295, 1296 (1987). Upon searching the home, the police found additional evidence tying the probationer to the burglaries, which led to the probationer's arrest and subsequent conviction. *Id.* In justifying the warrantless search, the State turned to the probation agreement, which read:

That probationer does hereby agree and consent to the search of his person, automobile, real property, and any other property at any time and at any place by any law enforcement officer, peace officer, or probation officer, and *does waive his constitutional right to be free from such searches.*

Id. (emphasis added). On appeal, Gawron argued this probation condition was an unreasonable invasion of his Fourth Amendment rights. *Id.* at 843, 736 P.2d at 1297. This Court disagreed and held the reasonableness of the search need not be addressed because Gawron had expressly waived his constitutional right to be free from warrantless searches. *Id.*

Conversely, in *Jaskowski*, an officer pulled Jaskowski over for an outstanding arrest warrant. 163 Idaho at 258, 409 P.3d at 838. During the stop, the officer learned that Jaskowski was on probation and asked for Jaskowski's probation officer to come assist with the stop. *Id.* Once there, the probation officer searched Jaskowski's vehicle without asking for Jaskowski's permission. *Id.* The probation officer then found drugs and drug paraphernalia in Jaskowski's car, which led to the State charging Jaskowski with felony possession and misdemeanor possession of drug paraphernalia. *Id.* at 258–59, 409 P.3d at 838–39. Jaskowski moved to suppress the evidence gathered by the probation officer, challenging the validity of the probation officer's search. *Id.* at 259, 409 P.3d at 839. The district court granted Jaskowski's motion, and the State appealed to this Court. *Id.*

On appeal, the State argued that a probationer only needed to be informed of an officer's intent to search for the search to be valid. *Id.* As part of its argument, the State quoted *Purdum*, asserting that “a probationer's consent to searches constitutes a waiver of Fourth Amendment rights.” *Id.* (quoting *State v. Purdum*, 147 Idaho 206, 208, 207 P.3d 182, 184 (2009)). Essentially, the State was arguing that all probation agreements “should be treated in the same way, without regard for the language used in the condition of probation.” *Id.* at 260, 409 P.3d at 840. This Court disagreed.

In reaching its conclusion, this Court tailored its review to the language of Jaskowski's probation agreement. The terms of that agreement were:

I shall submit and I agree to . . . warrantless searches of my person, personal property, electronic devices, automobiles, residence, and outbuildings *at the request*

of my Probation Officer, by the Probation Officer, Peace Officer, and/or his designee; with or without Probable Cause; any time day or night.

Id. at 261, 409 P.3d at 841. This Court held the warrantless search of Jaskowski's vehicle exceeded the scope of his probation agreement because his consent to search "was conditioned upon the probation officer requesting to conduct a search," and the probation officer made no such request. *Id.* at 260–61, 409 P.3d at 840–41. Because the search did not conform to the limitations of Jaskowski's agreement, it was unreasonable. *See id.* at 259–60, 409 P.3d at 839–40 ("It is well settled that when the basis for a search is consent, the state must conform its search to the limitations placed upon the right granted by the consent." (citation modified)).

These and other cases demonstrate that courts must look to the language of the probation agreement to determine the probationer's rights under that agreement. In interpreting these agreements, courts treat them like contracts. *See id.* at 261, 409 P.3d at 841. "Under this approach, the court will give force and effect to the words of the contract." *Id.* (citation modified). "[T]he law presumes that the parties understood the import of their contract and that they had the intention which its terms manifest." *Id.* (alteration in original) (quoting *J.R. Simplot Co. v. Bosen*, 144 Idaho 611, 614, 167 P.3d 748, 751 (2006)). And yet, this Court in *State v. Maxim*, 165 Idaho 901, 454 P.3d 543 (2019), seems to have come to the opposite conclusion.

In *Maxim*, police entered an apartment after knocking on the door caused the door to open. *Id.* at 903, 454 P.3d at 545. Inside, officers found Andrew Maxim and conducted a pat down, discovering a container of heroin in his pocket. *Id.* After arresting Maxim, the police learned that he was on probation and had signed a probation agreement. *Id.* The State then charged him with felony possession. *Id.* Maxim moved to suppress the evidence, arguing that the State had violated his Fourth Amendment rights. *Id.* The State responded by asserting that Maxim lacked standing because he had waived his Fourth Amendment rights in his probation agreement. *Id.* at 903–04, 454 P.3d at 545–46. The district court denied Maxim's motion, and Maxim appealed. *Id.* at 904, 454 P.3d at 546. This Court reversed the district court's denial of Maxim's motion in a split, 3-2 decision. *See id.* at 910, 454 P.3d at 552.

The State raised its standing argument again on appeal, asserting that Maxim lacked standing to assert his Fourth Amendment rights because he had expressly waived them in his probation agreement. *Id.* at 905, 454 P.3d at 547. Maxim's probation agreement included an express waiver of his Fourth Amendment rights:

Search: I consent to the search of my person, residence, vehicle, personal property, and other real property or structures owned or leased by me, or for which I am the controlling authority conducted by any agent of [the Idaho Department of Correction] or a law enforcement officer. *I hereby waive my rights under the Fourth Amendment and the Idaho constitution concerning searches.*

Id. at 907, 454 P.3d at 549 (alteration in original) (emphasis added).

This Court rejected the State’s standing argument. *See id.* at 906–07, 454 P.3d at 548–49. The Court determined that probation agreements must be “viewed . . . under the rubric of *consent* to searches”—regardless of whether agreement included an express waiver of the probationer’s rights under the Fourth Amendment. *Id.* at 907, 454 P.3d at 549. Accordingly, this Court focused its analysis on whether Maxim’s “consent” could transform an otherwise unreasonable search into a reasonable one. *Id.* at 907–08, 454 P.3d at 549–50. This Court concluded that it could not. *Id.* at 908, 454 P.3d at 550. This Court noted that the reasonableness of a search is determined by what the officer knew at the moment the search began. *Id.* Because the officers were unaware of Maxim’s “consent” at the time of the search, the *Maxim* court concluded that it could not provide an objectively reasonable basis for conducting the search. *Id.* From that premise, this Court held that a probationer may challenge a warrantless search under the Fourth Amendment notwithstanding an express waiver of Fourth Amendment rights in a probation agreement if the officers conducting the search were unaware of the waiver when the search occurred. *Id.*

Under *Maxim*, we would be constrained to hold that the district court erred in concluding that Al-Mafrachi’s express waiver vitiated his Fourth Amendment standing to contest the search. However, the State asks us to overrule *Maxim* and affirm the district court. After reconsidering *Maxim* and the precedent on which it relied, we conclude that *Maxim* was wrongly decided and overrule it to the extent explained below.

Overruling precedent is no small task, and deviating from stare decisis is a decision that cannot be made lightly. “Stare decisis provides that today’s Court should stand by yesterday’s decisions.” *State v. Ortiz*, 175 Idaho 94, ___, 562 P.3d 450, 454–55 (2025) (citation modified). And, as a rule, this Court adheres to controlling precedent unless it is “manifestly wrong,” has been “proven over time to be unjust or unwise,” or must be overruled “to vindicate plain, obvious principles of law and remedy continued injustice.” *Easterling v. Clark (Easterling II)*, 176 Idaho 121, ___, 574 P.3d 349, 360 (2025) (quoting *State v. Godwin*, 164 Idaho 903, 920, 436 P.3d 1252, 1269 (2019)). Notwithstanding the heavy burden of overruling precedent, we do so today because we are of the opinion that *Maxim* is manifestly wrong.

To begin, waiver and consent are distinct legal concepts. A “waiver” is “[t]he voluntary relinquishment or abandonment—express or implied—of a legal right or advantage.” *Waiver*, *Black’s Law Dictionary* (12th ed. 2024). Consent, by contrast, is “[a] voluntary yielding to what another proposes or desires; agreement, approval, or permission regarding some act or purpose” *Consent*, *Black’s Law Dictionary* (12th ed. 2024). Simply put, a probationer who waives their Fourth Amendment rights relinquishes those rights, while a probationer who consents to warrantless searches authorizes such searches only within the scope of that consent. Although the practical result may sometimes be the same—either may permit a search that would otherwise violate the Fourth Amendment—they carry different legal requirements and implications.

For example, a waiver of constitutional rights must be made knowingly, intelligently, and voluntarily—but the giving of consent need not be. *See Schenckloth v. Bustamonte*, 412 U.S. 218, 241–46 (1973) (holding that consent searches are not subject to the same requirements as knowing waivers). Moreover, waivers of constitutional rights are binding and will generally be upheld so long as the waiver was made knowingly, intelligently, and voluntarily. *See State v. Cope*, 142 Idaho 492, 496, 129 P.3d 1241, 1245 (2006) (quoting *State v. Murphy*, 125 Idaho 456, 457, 872 P.2d 719, 720 (1994)). Consent need only be voluntary and can generally be revoked. *State v. Halseth*, 157 Idaho 643, 646, 339 P.3d 368, 371 (2014) (“Inherent in the requirement that consent be voluntary is the right of the person to withdraw that consent.”). Thus, while the practical effect of waiver and consent might be similar, “there is nothing in the purposes or application of the waiver requirements . . . that justifies . . . the easy equation of a knowing waiver with a consent search.” *Schenckloth*, 412 U.S. at 246. And “[t]o make such an equation is to generalize from the broad rhetoric of some of our decisions, and to ignore the substance of the differing constitutional guarantees.” *Id.*

To be fair, some grace is owed to the *Maxim* Court. This Court and others have frequently referred to probation agreements as “Fourth Amendment waivers,” even in cases where there was no explicit waiver contained in the agreement. *See, e.g., Jaskowski*, 163 Idaho at 261, 409 P.3d at 841; *see also Green v. United States*, 355 U.S. 184, 191 (1957) (“‘Waiver’ is a vague term used for a great variety of purposes, good and bad, in the law.”). Other cases have referred to both consent and waiver when discussing the probation agreements at issue because those agreements included both consent and waiver language. *See State v. Gawron*, 112 Idaho 841, 843, 736 P.2d 1295, 1297 (1987). This muddling of two similar terms has led to confusion in our precedent and

the belief that we must always analyze Fourth Amendment waivers under the “rubric of consent.” See *Maxim*, 165 Idaho at 907, 454 P.3d at 549. But that is simply not the case.

The *Maxim* court relied on *Jaskowski* to conclude that all probation agreements must be analyzed under the “rubric of consent.” See *id.* That reliance is misplaced, however, given the material differences between the probation agreements in *Jaskowski* and *Maxim*. The *Jaskowski* court analyzed that probation agreement under the “rubric of consent” because the probation agreement in that case only used consent language. See *Jaskowski*, 163 Idaho at 261, 409 P.3d at 841. There was no express waiver provision included in that probation agreement. See *id.*

The *Gawron* Court, meanwhile, analyzed the probation agreement in that case under both a waiver and consent standard because the probation agreement included references to both the probationer’s consent and an express waiver provision. See *Gawron*, 112 Idaho at 842, 736 P.2d at 1296. This is also true of the probation agreement in *Purdum*. See *State v. Purdum*, 147 Idaho 206, 208, 207 P.3d 182, 184 (2009) (analyzing a probation provision that stated the probationer would consent to searches and waive his constitutional right to be free from those searches). These two cases commingled the term “waiver” with “consent” simply because the agreements in both cases included consent and waiver provisions, and the courts were using both terms as unartful shorthand for the probation agreement itself and the effect of that agreement. See *Gawron*, 112 Idaho at 843, 736 P.2d at 1297; *Purdum*, 147 Idaho at 210, 207 P.3d at 186.

This precedent hardly evidences that this Court must always analyze express waivers under a “rubric of consent.” And by so concluding, the *Maxim* court effectively read the express waiver provision in *Maxim*’s probation as a nullity—surplusage with no independent meaning—which flies in the face of how this Court has always interpreted probation agreements. See *Jaskowski*, 163 Idaho at 261, 409 P.3d at 841 (holding that the court will “give force and effect to the words” of the agreement, and “[t]he law presumes that the parties understood the import of their contract and that they had the intention which its terms manifest.” (quoting *J.R. Simplot Co. v. Bosen*, 144 Idaho 611, 614, 167 P.3d 748, 751 (2006))).

The proper analysis for probation agreements is tailored to the language of such agreements. See *id.* If the probation agreement is grounded in consent, then the proper analysis is whether that consent can convert an otherwise illegal search into a legal one. See *Maxim*, 165 Idaho at 908, 454 P.3d at 550. However, if the probation agreement is grounded in a complete, express waiver, then the proper analysis is whether the waiver was valid. If it was, then the probationer has

no Fourth Amendment right to challenge the search. In other words, the probationer has no legitimate expectation of privacy because they expressly waived any legitimate expectation of privacy. *See State v. Hoskins*, 165 Idaho 217, 221, 443 P.3d 231, 235 (2019) (holding that Fourth Amendment standing is merely “shorthand for the question of whether the moving party had a legitimate expectation of privacy in the area that was searched” (citation modified)). Probationers who have waived their rights under the Fourth Amendment cannot then stand upon a legitimate expectation of privacy to challenge a search because they have no such legitimate expectations. *See United States v. Knights*, 534 U.S. 112, 119 (2001) (“Inherent in the very nature of probation is that probationers do not enjoy the absolute liberty to which every citizen is entitled.” (citation modified)). Accordingly, we overrule *Maxim* to the extent that it held otherwise. Our decision does not, however, disturb cases whose holdings do not depend on the portion of *Maxim* that we overrule today.

Here, Al-Mafrachi’s probation agreement expressly waives his rights to be free from unreasonable searches and seizures under the Fourth Amendment and Idaho Constitution. It also expresses that he will submit (i.e. consent) to searches by law enforcement. Al-Mafrachi has not argued that this waiver was made unknowingly, unintelligently, or involuntarily. Accordingly, we conclude that he has no legitimate expectations of privacy, and no Fourth Amendment rights against unreasonable searches and seizures to assert here. Thus, we affirm the district court’s decision denying Al-Mafrachi’s motion to suppress for the same reason.

The concurrence would have this Court hold that Al-Mafrachi abandoned his backpack and thus no search occurred. *Infra* at 17-20. We decline to do so because neither party on appeal argued that Al-Mafrachi had abandoned his backpack. The concurrence nevertheless justifies its approach under the right-result-wrong-theory standard articulated in *State v. Campbell*, 177 Idaho 209, ___, 587 P.3d 211, 222 (2026). We do not embrace this approach here because, as explained above, the district court reached the right result with the correct theory.

VI. CONCLUSION

For the reasons set forth above, we affirm the district court’s denial of Al-Mafrachi’s motion to suppress.

Justices BRODY, ZAHN, and MEYER CONCUR.

MOELLER, Justice, concurring in the result.

While I concur in the result reached by the majority, which affirms the district court's denial of Al-Mafrachi's motion to suppress, I do not agree with its analysis or its decision to overrule *State v. Maxim*, 165 Idaho 901, 454 P.3d 543 (2019), unnecessarily. Even accepting, *arguendo*, the majority's justification for departing from the doctrine of stare decisis, explained in a scant four sentences, Al-Mafrachi's appeal is not an appropriate vehicle for overturning *Maxim*. Instead, because Al-Mafrachi abandoned any protected interest in the backpack before it was searched, no Fourth Amendment "search" occurred as to his effects. Therefore, I would affirm on that ground.

I. There are stark differences between the lawful police conduct in this case and the misconduct present in *Maxim*.

We must begin by acknowledging that *Maxim* addressed a uniquely bad set of facts. It asked this Court to determine "what happens when police unconstitutionally enter a home [*i.e.*, without a warrant], frisk an individual, arrest him, and, only after all that, discover that the individual has signed a Fourth Amendment waiver as a condition of probation." *Maxim*, 165 Idaho at 905, 454 P.3d at 547. More pointedly, the dispositive issue in *Maxim* was framed: "whether the existence of a Fourth Amendment waiver can transform the officer's otherwise *illegal* actions into reasonable ones despite being unaware of the waiver at the time he acted." *Id.* at 908, 454 P.3d at 550 (emphasis added). I am not prepared to concede that this Court somehow got it "manifestly wrong" when it answered that question in the negative.

The facts of this case are so dramatically different from those in *Maxim* that *Maxim* is easily distinguished. Here, the interaction between Al-Mafrachi and the Boise Police Department began with a lawful vehicle stop on a public road at 1:00 a.m. and a positive alert from a trained drug dog. The search of Al-Mafrachi's backpack was pursuant to a lawful vehicle search, in which Al-Mafrachi was the passenger, not the owner. Al-Mafrachi repeatedly disavowed ownership of the backpack to police before the officer searched the backpack. Finally, unlike in *Maxim*, the officer was aware that Al-Mafrachi was on felony probation *before* the search, although he was not aware of the precise terms of the probation waiver. The police in this case acted with professionalism and respected the boundaries of Al-Mafrachi's individual rights protected under the Fourth Amendment, unlike the brazen conduct we disapproved of in *Maxim*. Further, this appeal presents an unusual situation where the defendant expressly disavowed ownership of his effects and voluntarily left them in the vehicle, subjecting the backpack to a lawful search based on abandonment. None of these factors were present in *Maxim*. Thus, Al-Mafrachi's constitutional

interest and expectation of privacy in the backpack—one that he repeatedly asserted he did not own and left in the vehicle—is profoundly less than the interest in being safe and secure within the walls of one’s own *home* at stake in *Maxim*.

The district court ultimately concluded that Al-Mafrachi lacked standing to challenge the search of his backpack under the Fourth Amendment because of his probation waiver. The State concedes that under *Maxim*, the district court erred when it concluded Al-Mafrachi lacked standing to raise a Fourth Amendment challenge based on his waiver alone. Nevertheless, the State argues that *Maxim* should be overruled because it conflates consent and waiver as interchangeable concepts. The State distinguishes these terms by suggesting that consent is relevant to the reasonableness of a search, while waiver is relevant to standing. The State argues that a defendant essentially jettisons any reasonable expectation of privacy when he waives his Fourth Amendment rights as a condition of probation. Accepting that argument, the majority concludes that a defendant on probation who signs a search waiver does not have standing to raise a Fourth Amendment challenge. However, regardless of whether that conclusion is correct, it is unnecessary for us to reach that issue because this case should never have been decided on standing principles untethered to substantive Fourth Amendment law.

Importantly, the district court found that abandonment did not apply to Al-Mafrachi’s backpack before it found that he lacked standing. Al-Mafrachi’s counsel acknowledged that during oral argument on the motion to suppress, “[the State] did [argue abandonment] to a limited degree[.]” The record confirms that the trial court expressly addressed and rejected abandonment. It did so despite undisputed evidence that Al-Mafrachi (1) repeatedly disavowed ownership, (2) left the backpack in the car when he exited the vehicle, and (3) did not own the car. After applying the factors from *State v. Porter*, 170 Idaho 391, 398, 511 P.3d 273, 280 (Ct. App. 2022), and the “subjective expectation” from *State v. Pruss*, 145 Idaho 623, 181 P.3d 1231 (2008), the district court stated, “I don’t find that the *Porter* case of abandonment necessarily applies to the backpack. There is a reasonable expectation of privacy under those factors related to the backpack.”

This rejection, when viewed through the holding in *State v. Campbell*, 177 Idaho 209, 587 P.3d 211 (2026), permits our free review of constitutional abandonment. In *Campbell*, we explained that a trial court’s adverse ruling on an issue, even if it is challenged for the first time on appeal, is nonetheless preserved for appeal. *Id.* at ___, 587 P.3d 211, 222–23 (2026) (“a party preserves an issue for appeal by properly presenting the issue with argument and authority to the

trial court below and noticing it for hearing *or* a party preserves an issue for appeal if the trial court issues an adverse ruling . . . [b]oth are not required.”) (quoting *State v. Miramontes*, 170 Idaho 920, 924–25, 517 P.3d 849, 853–54 (2022)). This explanation allowed us to decide the case under a “right result-wrong theory” analysis. *Id.* at ___, 587 P.3d at 222. *See also State v. Yakovac*, 145 Idaho 437, 442, 180 P.3d 476, 481 (2008) (explaining that issues raised on appeal can be addressed if the record discloses an adverse ruling).

Unlike in *Campbell* and *Miramontes*, here both preservation prongs are present: the issue was argued to the district court *and* the court made an adverse ruling. This also materially distinguishes this case from *State v. Hoskins*, which declined to apply the right result-wrong theory rule when the proper theory was not argued to the district court. 165 Idaho 217, 223, 443 P.3d 231, 237 (2019). *See also State v. Monroe*, 172 Idaho 838, 844, 537 P.3d 79, 85 (2023) (“Although not asserted by [the appellant], the pleading theory was raised by the [opposing party], addressed by the court, and ultimately provided a basis for the court’s adverse ruling. Accordingly, we conclude that the issue was satisfactorily preserved for appeal.”).

Like in *Campbell*, the State’s argument on appeal almost exclusively focuses on a single issue: standing. However, the State *did* argue below that the warrantless search of the vehicle and Al-Mafrachi’s backpack was reasonable, making it constitutional. Applying our holding in *Campbell*, the constitutionality of the alleged search and the question of abandonment have been preserved for appeal based on (1) the district court’s incorrect conclusion that abandonment did not apply and (2) the State’s argument that the search was reasonable, which implicates abandonment. It is worth noting that the majority, in a footnote, “declines” to “embrace” this approach because it agrees with the district court’s standing analysis, although it does not follow it.

II. The majority has ignored the proper Fourth Amendment framework for analyzing the constitutionality of a search.

For decades, law students have learned, lawyers have argued, and courts have applied a constitutional framework that always begins with a simple question: “was there a search?” I believe the majority has gotten ahead of itself in its Fourth Amendment analysis—placing the proverbial cart before the horse—by embracing the State’s efforts to overturn *Maxim* on standing. Consequently, the majority fails to address what should be the initial inquiry of every search case: was there a search of the defendant’s effects that implicates the Fourth Amendment? In this case, the answer is plainly “no.”

Until today, this Court has followed the proper framework. “To show a violation of the Fourth Amendment’s prohibition on unreasonable searches, the defendant ‘must come forward with evidence sufficient to show [1] *there was a Fourth Amendment search*, [2] [the defendant] has standing to challenge the search, and [3] the search was illegal.’ ” *State v. Rebo*, 168 Idaho 234, 238, 482 P.3d 569, 573 (2020) (quoting *State v. Hoskins*, 165 Idaho 217, 220-21, 443 P.3d 231, 234-35 (2019)) (emphasis added) (citations modified). Thus, as should be self-evident, the first step in any search and seizure analysis is to determine whether there has been a “search” (or a seizure). Only after a search has been established do we consider whether the defendant had standing to challenge the search. Nevertheless, the majority fails to take that necessary first step and leaps to address the second question—standing.

The district court correctly noted that under *Rakas v. Illinois*, 439 U.S. 128 (1978), the defendant “has the *threshold burden* of showing that *the search or seizure occurred* which infringed on his reasonable or legitimate expectation of privacy in the area searched or the property seized.” (Emphasis added). In fact, to answer the first question first, *Rakas* expressly “dispens[ed] with the rubric of standing.” *Rakas*, 439 U.S. at 140. There, like in the instant appeal, passengers of a vehicle (that they did not own) sought to suppress evidence obtained from a search of the vehicle. *Id.* at 130–31. The petitioners’ theory on appeal rested on their argument that they had “standing” to contest the search and admission of the evidence. *Id.* at 132–33. The United States Supreme Court expressly rejected application of “standing” when articulating its evaluation of whether a defendant may dispute the constitutionality of a search or seizure under the Fourth Amendment. *Id.* at 139 (“[W]e think the better analysis forthrightly focuses on the extent of a particular defendant’s rights under the Fourth Amendment, *rather than on any theoretically separate, but invariably intertwined concept of standing.*”) (Emphasis added). It concluded that “this Court’s long history of insistence that Fourth Amendment rights are personal in nature has already answered many of these traditional standing inquiries, and we think that definition of those rights is more properly placed within the purview of substantive Fourth Amendment law than within that of standing.” *Id.* at 140 (emphasis added).⁴ See also *Byrd v. United States*, 584 U.S.

⁴ Idaho cases observing the mixed nature of Fourth Amendment “standing” and constitutionally protected interest analyses are not new. See, e.g., *Stark v. State*, 171 Idaho 541, 545, 524 P.3d 43, 47 (2023) (“ ‘Standing in the Fourth Amendment context is used as shorthand for the question of whether the defendant personally has a reasonable expectation of privacy in the place [or thing] to be searched.’ ” (citation omitted)); *State v. Marshall*, 149 Idaho 725, 727, 239 P.3d 1286, 1288 (Ct. App. 2008) (“On a suppression motion challenging a warrantless search, the defendant

395, 410 (2018) (quoting *Rakas*, 439 U.S. at 139) (“It is worth noting that most courts analyzing the question presented in this case, . . . have described it as one of Fourth Amendment ‘standing,’ a concept the Court has explained is not distinct from the merits and ‘is more properly subsumed under substantive Fourth Amendment doctrine.’ ”).

Applying the initial step from *Rakas* to Al-Mafrachi’s Fourth Amendment challenge on appeal, we should ask the same foundational question the United States Supreme Court asked:

whether the challenged search . . . violated the Fourth Amendment rights of a criminal defendant who seeks to exclude the evidence obtained during it. That inquiry in turn requires a determination of whether the disputed search . . . *has infringed on an interest of the defendant which the Fourth Amendment was designed to protect.*

Id. (Emphasis added). To proceed past this threshold inquiry, a defendant must establish two entwined facts: that there was (1) a constitutionally protected “interest” involved and (2) a search or seizure of that interest by a state actor occurred in violation of the Fourth Amendment. As will be shown below, because Al-Mafrachi cannot establish the first necessary fact, there is no need to address the second.

III. Because Al-Mafrachi abandoned his backpack, he lost any protected Fourth Amendment interest in it; thus, he cannot establish that his effects were subject to a search.

The United States Supreme Court has consistently applied a reasonable expectation of privacy approach in determining whether a defendant had an interest in an object searched or seized. *See Carpenter v. United States*, 585 U.S. 296, 304 (2018); *Florida v. Jardines*, 569 U.S. 1, 5 (2013); *Soldal v. Cook County*, 506 U.S. 56, 64 (1992); and *Katz v. United States*, 389 U.S. 347, 353 (1967). Below, Al-Mafrachi argued that he retained a “possessory interest” in the backpack in his memorandum, despite his earlier attempts to disavow ownership. At oral argument on the motion, Al-Mafrachi claimed that he “should be able to challenge the issue of the search as it pertains to his backpack[.]” Now, on appeal, Al-Mafrachi argues that he had a reasonable expectation of privacy in his backpack; however, neither Al-Mafrachi, the State, nor the majority has grappled with the constitutional implications of his abandonment of the backpack.

bears the evidentiary burden to show that a search occurred, that there was no warrant, and that the defendant has ‘standing’ to challenge the search. By ‘standing’ we mean that the defendant had a reasonable expectation of privacy in the place or thing that was searched.”) (internal citations omitted) (emphasis added).

Generally, one's personal effects, like a backpack, are constitutionally protected items under the Fourth Amendment. U.S. Const. amend. IV. However, under the facts presented here, even assuming that he once had an interest in his backpack, Al-Mafrachi cannot establish that there was a "search" of *that* interest. Substantial and competent evidence presented to the district court during the suppression hearing conclusively demonstrates that he had relinquished any interest he may have had in his backpack by continually disavowing ownership. " 'One who voluntarily abandons property prior to [a] search cannot be said to possess the requisite privacy interest' under the Fourth Amendment." *Stark v. State*, 171 Idaho 541, 545, 524 P.3d 43, 47 (2023) (citation omitted); *see also State v. Ibarra*, 164 Idaho 349, 353, 429 P.3d 890, 894 (Ct. App. 2018) ("A person has no Fourth Amendment privacy interest in abandoned property.") (citation omitted) (citing *State v. Ross*, 160 Idaho 757, 759, 378 P.3d 1056, 1058 (Ct. App. 2016)). As applied to the facts of this case, a defendant cannot voluntarily inform the police that "this is not my backpack," leave it in another's vehicle, and still hope to preserve the ability to later challenge a subsequent search of the backpack because he retained no protected interest in it.

Moreover, persuasive authority from the Ninth Circuit, applicable here, holds that "property may be abandoned even when the defendant only abandons the property in response to, or in anticipation of, law enforcement action." *United States v. Fisher*, 56 F.4th 673, 687 (9th Cir. 2022) (citing *United States v. McLaughlin*, 525 F.2d 517, 519–20 (9th Cir. 1975)). Although *Fisher* addressed a convincing example of abandonment (defendants hid the seized evidence in a home they later sold and did not attempt to retrieve the items before they were seized nine months later), it also cites caselaw where a defendant abandoned his property when he threw it from a truck during a law enforcement pursuit and another case where an individual left his bag on an airplane. *Fisher*, 56 F.4th at 687; *see United States v. McLaughlin*, 525 F.2d 517, 519–20 (9th Cir. 1975); *United States v. Nordling*, 804 F.2d 1466, 1470 (9th Cir. 1986).

Fisher also explains that "abandonment is a factual determination that 'is a question of intent.' " *Fisher*, 56 F.4th at 686 (quoting *Nordling*, 804 F.2d at 1469). "That is, the factfinder's 'inquiry should focus on whether, through words, acts or other objective indications, a person has relinquished a reasonable expectation of privacy in the property at the time of the search or seizure.' " *Fisher*, 56 F.4th at 686 (quoting *Nordling*, 804 F.2d at 1469). This is where an abandonment analysis most significantly diverges from the district court's inquiry, which looked at Officer Moss' subjective perception of the backpack's ownership. Instead, *Fisher* instructs that

the inquiry should focus on the intent of the *suspect*—not law enforcement’s subjective interpretation—as demonstrated by the circumstances surrounding the event. *Fisher*, 56 F.4th at 686. More recently, the Ninth Circuit has explained how the “totality of the circumstances” can determine intent: “Our caselaw recognizes two important factors in this [abandonment] inquiry: the denial of ownership and the physical relinquishment of the property.” *United States v. Baker*, 58 F.4th 1109, 1118 (9th Cir. 2023) (citing *Nordling*, 804 F.2d at 1469).

Al-Mafrachi’s counsel acknowledged at oral argument that (1) “where an individual abandons property, they don’t have standing to challenge [the search],” and (2) “abandonment would go to the question of standing. If [Al-Mafrachi] had abandoned his property interest, that would go to the question of standing.” Thus, if standing is truly the dispositive issue of this case, it is not the same type of standing Al-Mafrachi or the majority have in mind. Indeed, as discussed above, the United States Supreme Court has made clear that “traditional standing” principles must give way to “substantive Fourth Amendment law.” *Rakas*, 439 U.S. at 139–140. Fourth Amendment standing, the type referred to in *Stark*, *Rebo*, and our other cases, actually focuses on the Fourth Amendment itself and the privacy expectations it protects. It is not reliant on the broader concepts of standing that focus on whether a claim or defense can be properly raised by a particular party based on their status. In sum, the “no protected interest” analysis espoused in this concurrence is not merely traditional standing going by a different name. It is a substantive concept grounded in the text and history of the Fourth Amendment.

Accepting the district court’s findings of fact from the suppression hearing, I would conclude that Al-Mafrachi intentionally abandoned any interest in his backpack based on his “words, acts, [and] other objective indications.” *Fisher*, 56 F.4th at 686. This occurred when he (1) repeatedly disclaimed ownership prior to the search, and (2) relinquished the backpack by leaving it in the car. Thus, if there was a search, it was not Al-Mafrachi’s property that was searched.

Admittedly, this is seemingly contradicted by his earlier action of removing his wallet from the backpack. Indeed, Officer Moss testified that “[Al-Mafrachi] produced an Idaho ID card which was inside of a black wallet bound with a rubber band which he retrieved from a zippered compartment in a backpack that was positioned at his feet.” Yet, Al-Mafrachi was not the owner of the vehicle and, most importantly, after retrieving his wallet, he “continually denied being the owner of the backpack.” His words and actions at the time the search was requested are clearly the

most probative evidence of his intent to abandon. Moreover, as the district court noted, the backpack was “not necessarily possessed by him” because it was merely sitting at his feet when the stop began and because *he left the backpack* in the vehicle both times he stepped out of the car. Although not controlling here, the significance of leaving the backpack in the car is demonstrated by a recent case where we held that a suspect who retained her purse as she exited a car prior to the vehicle search—rather than leaving it behind—rendered the subsequent search of the purse unconstitutional under the automobile exception. *State v. Maloney*, 168 Idaho 936, 943–44, 489 P.3d 847, 854–55 (2021).

I would conclude that Al-Mafrachi abandoned his backpack (and his constitutionally protected interest under the Fourth Amendment) based on the totality of the substantial and competent evidence in the record. This conclusion emphasizes the importance of (1) his own words, freely and repeatedly spoken, and (2) his own uncoerced actions. This is not a case where police encountered a bag sitting at a suspect’s feet and simply determined that he did not adequately assert a possessory right. Nor does this conclusion imply that a person’s Fourth Amendment right must be affirmatively manifested to be protected—that would turn the Fourth Amendment on its head. Indeed, under the circumstances here, without any statement by Al-Mafrachi disavowing ownership of the backpack, I would likely reach a different result.

Although the district court denied the motion to suppress based on finding a lack of standing due to his probation waiver, we should reach the same result under the constitutional theory most applicable to these facts—abandonment—a theory upon which the district court made a contemporaneous adverse ruling. *See Campbell*, ___ Idaho at ___, 587 P.3d at 222–23. Applying the proper theory, rejected by the district court, Al-Mafrachi cannot establish that he had an interest in the backpack protected by the Fourth Amendment. Based on Al-Mafrachi’s (1) repeated statements disclaiming ownership of the backpack and (2) his actions in leaving the backpack in the vehicle, there was no “search” of his effects for us to review under the Fourth Amendment. Therefore, I would affirm the district court’s denial of the motion to suppress on that basis.

IV. Conclusion

Instead of initially addressing the antecedent question of whether Al-Mafrachi retained a reasonable expectation of privacy in the backpack—the interest the Fourth Amendment protects—the majority has unnecessarily answered a question regarding the effect of his probation waiver. Yet, because he abandoned any protected interest in the backpack, Al-Mafrachi had no rights for

the waiver to diminish. Therefore, the majority did not need to decide whether a probation waiver defeats standing or overturn *Maxim* to affirm the district court. As a result, rather than grounding its decision on a constitutionally sound footing, the majority's opinion has improvidently overturned *Maxim* by misapplying a standing analysis it did not need to reach.

I would simply conclude that due to Al-Mafrachi's abandonment of the backpack, no search of a protected interest occurred under the Fourth Amendment. Consequently, the district court should be affirmed under the right result-wrong theory rule. If the majority is determined to accede to the State's efforts to see *Maxim* overruled, judicial restraint suggests that we should at least wait for the proper case to do so.