"Minnesota Supreme Court Uphold Warrantless Blood Draws in DUI/Drunk Driving Cases When the Driver Gives Consent"

CASE: Minnesota v Brooks (A11-1042, 1043; October 23, 2013)

FACTS:
This appeal arises out of three separate DUI/drunk driving arrest that all took place during a six month period from July 31, 2009 to January 25, 2010. All three incidents/arrests involved the defendant, Wesley Eugene Brooks.

A. First Arrest: On July 31, 2009, at approximately 2:00 a.m. in the morning the defendant was stopped after driving quickly away from a bar. The defendant, Wesley Eugene Brooks, refused to perform field sobriety tests until he could speak to his attorney, who happened to be a passenger in the vehicle. Brooks refused to perform any field sobriety tests. Brooks was then arrested for DUI/drunk driving. Brooks was then taken to the St. Francis Medical Center and read the Minnesota implied consent advisory. That advisory informs drivers that Minnesota law requires them to take a chemical test for the presence of alcohol (in a DUI/drunk driving arrest), that refusing to take the test is a crime and that the drivers have the right to talk to an attorney before deciding whether or not to take the test. A driver does have the right to speak with an attorney before deciding whether or not to take the test. Ultimately, Brooks agreed to provide a urine sample which revealed an alcohol concentration of .14, above the Minnesota legal limit in DUI/drunk driving cases of .08. The police did not attempt to secure a search warrant in connection with this arrest prior to Brooks providing the urine sample.

B. Second Arrest: Brooks was again arrested for DUI/drunk driving on January 16, 2010. The arresting officer read Brooks the Minnesota implied consent advisory form. Brooks called his attorney and agreed again to take a urine test; however, when taken to the restroom Brooks could not urinate. Brooks called his attorney after being asked whether or not he'd be willing to take a blood test; and after speaking with his attorney, Brooks agreed to give a blood sample. The alcohol concentration in Brooks' blood sample was .16. The police did not attempt to secure a search warrant in connection with this arrest.

C. Third Arrest: On June 25, 2010 Brooks was once again arrested for DUI/drunk driving after being found sleeping behind the wheel of his car. Brooks was unconscious in the driver's seat. The car was running and in gear, and Brooks had his foot on the brake. After this arrest, Brooks was again read his Minnesota implied consent advisory paperwork. Brooks spoke with his attorney on the phone and ultimately voluntarily gave a urine sample. The alcohol concentration in Brooks' urine sample from this arrest (the third arrest for DUI) was .16. Once again, the police did not attempt to secure a search warrant in connection with the January 25, 2010 arrest.

As to each of the three separate DUI arrests, Brooks moved to suppress the results of the blood and urine tests because the police had taken the samples without a search warrant.

PROCEDURAL HISTORY:
In all three cases the trial court's denied Brooks' motions to suppress because the samples had been obtained without a search warrant. The Minnesota Court of Appeals affirmed the lower court rulings. Notably, the Court of Appeals relied on a Minnesota Supreme Court precedent holding that the evanescent quality of alcohol in the body created a single factor exigent circumstance that on its own allowed police to search drivers suspected of driving under the influence without a warrant.

This appeal to the Minnesota Supreme Court followed.
ISSUE:

Did the police violate the 4th Amendment rights of Wesley Eugene Brooks when they took blood and urine samples from him without a search warrant?

HOLDING:
No. Because the Court concluded that Brooks consented to the searches at issue, thus making a search warrant unnecessary, the Minnesota Supreme Court affirmed Brooks' convictions for DUI/drunk driving. Brooks argued that (under McNeely v Missouri) that warrantless searches of his blood and urine could not be upheld solely because of the exigency created by the dissipation of alcohol in his body. The Minnesota Supreme Court agreed with this point.

The state argued for the court to uphold the warrantless searches on several separate and independent grounds; asserting that Brooks consented to the searches, exigent circumstances existed in these cases, the searches were valid incident to Brooks' lawful arrests, and that the searches were independently "reasonable" as minimal intrusions into Brooks' privacy.

First, as to the question of consent, the Court found that the record in all three cases clearly established that Brooks consented to both the urine and the blood tests. Brooks argued that he did not consent because he agreed to submit to chemical testing only after the police told him that refusal to submit to the testing was a crime. The Court agreed with the state that Brooks consented to the searches at issue. Taking blood and urine samples from someone does constitute a "search" under the 4th Amendment; but police do not need a warrant if the subject of the search consents to the search. For a search to fall under the consent exception to the 4th Amendment, the state must show by a preponderance of the evidence that the defendant freely and voluntarily consented to the search. This is determined by examining the "totality of the circumstances present."

It is a crime for a driver in Minnesota to refuse to take a test requested under the implied consent law; however, if someone suspected of DUI/drunk driving does not agree to take a test, the police may not administer one. An examination of the trial record before the court, in consideration of the "totality of the circumstances present", established that Brooks consented to all three tests at issue. The Minnesota Supreme Court has previously held that Minnesota's implied consent law, even though it makes it a crime to refuse testing, does not coerce a driver into testifying against himself. [McDonnell v Comm'r of Pub Safety, 473 N.W.2d 848, 855-56 (Minn. 1991)]. The Minnesota legislature has given those who drive on Minnesota roads a right to refuse the chemical test. If a driver refuses the test, the police are required to honor that refusal and not perform the test. Although refusing the test comes with criminal penalties in Minnesota, the decision is still a voluntary one for the driver. Additionally, a thorough examination of the facts in each of the three underlying cases demonstrates that Brooks was not unlawfully coerced to provide consent. Furthermore, while an individual does not necessarily need to know that he or she has the right to refuse a search for consent to be voluntary, the fact that someone (as is the case here) submits to the search after being told that he or she can say no to the search supports a finding that the consent given was voluntary.

In sum, and based on the Minnesota Supreme Court's analysis of the totality of the circumstances present, the court held that Brooks voluntarily consented to all of the searches at issue in this case.

ACCORDINGLY, THE DEFENDANT'S CONVICTIONS ARE HEREBY AFFIRMED.