

"Missouri Court of Appeals Affirms Trial Court Suppression of Blood Test in DWI/Drunk Driving Case"

CASE: Missouri v Reed (Missouri Ct. of Appeals, Opinion No. SD32465; May 24, 2013)

FACTS:

A Missouri State Highway Patrolman made contact with the defendant, Jason Reed, when Reed arrived to pick up a passenger in a car where the driver had been stopped for erratic driving and subsequently charged with DWI/drunken driving. The trooper thought that Reed stopping approximately thirty (30) yards from the location of the stop car was "unusual". The trooper then asked Reed to perform several field sobriety tests. Subsequently, without Reed's consent and without a search warrant, the trooper transported Reed to a hospital for a blood draw approximately two (2) hours later. Reed was charged with DWI/drunken driving.

PROCEDURAL HISTORY:

Prior to the trial of the case Reed filed a motion to suppress with the trial court. After hearing arguments, and citing the 4th Amendment to the United States Constitution and similar provisions in the Missouri Constitution, the judge suppressed the laboratory results. The state then appealed the decision. In its appeal, the state argued that "exigent circumstances" or "special facts" existed to justify a warrantless blood draw because: (1) the trooper had to complete a prior DWI/drunken driving investigation prior to turning his attention to the defendant Reed; (2) the trooper had to allow 20 minutes for Reed to attempt to contact an attorney; (3) the trooper had to transport Reed to the hospital; (4) the evanescent nature of blood alcohol concentration; and (5) the additional one to two hour delay necessary to obtain a search warrant.

ISSUE:

Does a two hour and five minute (2:05) delay caused by a prior DWI/drunken driving investigation, the evanescent nature of blood alcohol concentration in a person's blood and an additional one (1) to two (2) hour delay necessary to obtain a search warrant create an exigent circumstance exception to the search warrant requirement of the 4th Amendment?

HOLDING:

No. The trial court's decision to suppress the blood alcohol results in this case is supported by substantial evidence in the record and is therefore affirmed.

Although the trial court did not have the benefit of the United States Supreme Court case, Missouri v. McNeely, the trial court correctly anticipated the holding of that case in concluding that the natural metabolism of alcohol in a person's blood stream does not present a "per se" exigent circumstance justifying an exception to the 4th Amendment's search warrant requirement. The trial court correctly used a totality of the circumstances test and determined that there were no special facts or exigent circumstances present in this case that would justify an exception to the search warrant requirement.

The thrust of the State's argument is actually that the trooper was busy that night. The facts of this case indicate that this was "unquestionably a routine DWI/drunken driving case." As the United States Supreme Court held in McNeely, "The 4th Amendment will not tolerate adoption of an overly broad categorical approach that would dilute the warrant requirement in a context where significant privacy interests are at stake."

The trial court's decision is supported by substantial evidence, not clearly erroneous, and correctly granted the defendant's motion to suppress. The judgment of the trial court in suppressing the blood alcohol test results is affirmed.