

"California Court of Appeals Upholds Blood Draws in Misdemeanor DUI/Drunk Driving Cases"

CASE NAME: The People v Anthony Cuevas (and six other defendants); (California Court of Appeals, First Appellate District - Division I, Opinion No. A138062; August 15, 2013)

FACTS:

In each of these cases before the Court the defendant was arrested for DUI/drunk driving; after which each was advised by the arresting officer that under California's implied consent law they were required to take one of two chemical tests. All of the defendants opted for a blood test or blood draw. In all of the cases the arresting or transporting officer witnessed the blood draw, observed the defendant having the area cleaned before the blood was drawn and observed the injection area being bandaged following the blood draw.

Each defendant filed a motion to suppress evidence of the blood draw prior to the trial of their case.

PROCEDURAL HISTORY:

The basis for the defendants motions to suppress were that under Schmerber v California (1966) that the blood draws were not performed in a constitutionally reasonable manner.

In six of the seven cases before the Court, the trial court denied the defendants motions to suppress under Schmerber and the 4th Amendment.

In a 2 to 1 decision, the initial appellate division sided with the defendants on the suppression motions and held that the evidence presented by the prosecution at the suppression hearing, consisting solely of testimony from a police officer who described the nature and circumstances of the blood draws in question, was insufficient to show that the blood draws were performed in a reasonable manner under the 4th Amendment; reversing the trial court's denial of the defendants motions to suppress.

This appeal followed.

ISSUE:

Did the record before the Court support a finding that the defendants' blood was drawn in a manner that was unreasonable within the meaning of the 4th Amendment?

HOLDING:

No. The blood draws in each case before the Court passes muster under the 4th Amendment and the initial appellate decision is reversed and the trial court's ruling is hereby reinstated. The Court held "the direct and uncontroverted evidence" from the police officer who observed the blood draw was sufficient to establish that each blood draw was performed in a reasonable manner.

The Supreme Court has long held that the touchstone of the 4th Amendment is "reasonableness." In applying the "reasonableness" test, the United States Supreme Court has consistently declined to employ bright line rules and instead has emphasized the fact specific nature of a reasonableness inquiry in the cases before it. In Schmerber, (a DUI case from California), the US Supreme Court held that the 4th Amendment's proper function is to constrain and protect against intrusions which are not justified in the circumstances or which are made in an improper manner. Therefore, the question in this case is whether or not the police were justified in requiring the defendants to submit to the blood tests, and whether the means and procedures employed in taking their blood respected relevant 4th Amendment standards of reasonableness.

In the cases before us the record is complete: the defendant's blood was taken by a physician in a hospital environment according to accepted medical practices. There is nothing in the record before us that supports any type of inference that the manner of drawing the blood was unsanitary or subjected the defendants to any unusual pain or indignity. The testimony of a police officer, when he or she is the primary witness to the blood draw in question, may properly be considered in evaluating whether the blood draw was conducted in a constitutionally reasonable manner.

The un-rebutted evidence presented by the officers is sufficient to show that the blood draws were performed in a reasonable manner and pursuant to the 4th Amendment. Summarily, all of the defendants chose to have a blood test; the blood draws were performed by trained medical technicians; the procedures employed to obtain the blood samples were medically acceptable; and finally, the officers' un-rebutted testimony shows that the blood draws did not expose any defendant to "an unjustified element of personal risk of infection or pain." Accordingly, we are persuaded that the blood draws in these cases were conducted in a constitutionally reasonable manner.

IT IS ORDERED, that the opinions of the appellate division of the Superior Court of Alameda County, California are reversed, and the cases are hereby remanded to the trial court for further proceedings consistent with this opinion.