

FILED

2015 JUN 26 AM 11:39

SONYA KRASKI
COUNTY CLERK
SNOHOMISH CO. WASH

SUPERIOR COURT OF WASHINGTON
FOR SNOHOMISH COUNTY

THE STATE OF WASHINGTON,

Plaintiff,

Defendant.

CERTIFICATE PURSUANT TO
CrR 3.6 OF THE CRIMINAL RULES
FOR SUPERIOR COURT

The undersigned Judge of the above court hereby certifies that a hearing has been held in the absence of the jury pursuant to Rule 3.6 of the Criminal Rules for Superior Court and now sets forth:

1. **The Undisputed Facts**

- a. On July 31, 2013, the Defendant was the operator of a motor-vehicle that was involved in a one-vehicle, rollover accident in Snohomish County, Washington at approximately 6:30 A.M.
- b. A passenger in the vehicle was ejected and suffered a head injury. The first law enforcement officer and an aide car arrived shortly after 6:30 AM.
- c. Numerous Washington State Patrol Troopers and the Criminal Investigation Division (CID) arrived to process the scene and investigate the accident.
- d. Trooper Tolen arrived on scene and contacted the defendant at approximately 6:55 A.M. He noticed an odor of intoxicants on the defendant's breath.

- e. Trooper Campbell took over the investigation of Mr. Williams at 7:00 A.M and asked him to perform Field Sobriety Test. After his performance on the test, the Trooper placed the defendant under arrest at 7:09 A.M.
- f. Trooper Campbell worked on drafting a search warrant for the defendant's blood between 7:30 A.M. and 8:00 A.M.
- g. At approximately 8:35 A.M, the Trooper requested Washington State Patrol (WSP) dispatch to contact a Judge to approve a telephonic warrant for the defendant's blood.
- h. WSP Communications attempted to contact five district court judges without success.
- i. The Honorable Judge Lyons was reached at approximately 8:56 A.M. She told dispatch that she was commuting to work and would be available in five minutes. Dispatch never called back.
- j. Trooper Campbell left the accident scene with the defendant at 9:05 A.M. and drove to Cascade Valley Hospital for a blood draw.
- k. The Trooper read the defendant Special Evidence Warnings at 9:35 A.M. and his blood was drawn without his consent at 9:45 A.M.

2. **The Disputed Facts**

No disputed facts.

3. **Court's Conclusions as to Disputed Facts**

No disputed facts.

4. **Court's Conclusions as to the Motion to Suppress Blood Results**

- a. The defendant's blood was drawn by law enforcement without his consent and was a search of his body.
- b. Warrantless searches are presumed unlawful unless the State proves that it falls within one of the narrowly drawn exceptions to the warrant requirement.
- c. The natural dissipation of alcohol in the blood stream is not a per se exigent circumstance that will justify a blood test without a warrant. Whether a warrantless blood test of a drunk-driving suspect is reasonable must be determined case by case based on the totality of the circumstances. *Missouri vs. McNeely*, 133 S.Ct.1552 (2013).

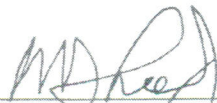
- d. Given the number of responding law enforcement officers and the possibility of a telephonic warrant, Mr. William's circumstances presented no plausible justification for an exception to the warrant requirement.
- e. The Defendant's blood was drawn in violation of his Fourth Amendment rights and the test results are hereby suppressed.

DONE IN OPEN COURT this 20th day of June, 2015.



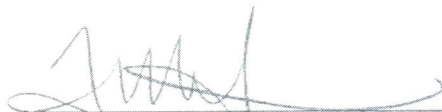
THE HONORABLE JUDGE KRESE

Presented by:



Defense Attorney
Michael P. Sheehy, WSBA 29914

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Deputy Prosecuting Attorney