

DISTRICT OF COLUMBIA COURT OF APPEALS

Mohamed Fadul v. District of Columbia

106 A.3d 1093 (D.C. 2015) · No. No. 13-CT-226 · Decided January 22, 2015

SUMMARY

The District of Columbia Court of Appeals affirmed Mohamed Fadul’s conviction for driving under the influence. The court held that the trial court did not abuse its discretion by declining to sanction the government for failing to produce a potentially missing police radio recording, and that the evidence was sufficient to establish operation or physical control of the vehicle. The court also rejected Fadul’s claim that the DUI statute was unconstitutionally vague.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Nebeker, Senior Judge; Glickman, Associate Judge; McLeese, Associate Judge
JURISDICTION	District of Columbia
DECIDED	January 22, 2015
DOCKET	No. 13-CT-226
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a Superior Court of the District of Columbia bench-trial conviction for driving under the influence of alcohol.
STANDARD OF REVIEW	The denial or selection of sanctions for an alleged Jencks Act violation is reviewed for abuse of discretion. Sufficiency of the evidence is reviewed by asking whether the government produced evidence from which a reasonable mind might fairly infer guilt beyond a reasonable doubt. A constitutional vagueness challenge raised for the first time on appeal is reviewed for plain error.
PRECEDENTIAL VALUE	published opinion
PARTIES	Mohamed Fadul v. District of Columbia

TOPICS

- criminal procedure
- suppression of evidence
- due process
- appellate procedure

PRACTICE AREAS

criminal procedure

constitutional law

evidence

appellate procedure

statutory interpretation

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by declining to sanction the government for failing to produce a police radio recording potentially subject to the Jencks Act.
2. Whether the evidence was sufficient to prove that Fadul operated or was in physical control of the vehicle under D.C. Code § 50-2206.11.
3. Whether D.C. Code § 50-2206.11 is unconstitutionally vague as applied to sleeping in the driver's seat of a parked vehicle with the engine idling.

HOLDINGS

1. Even assuming that the government violated the Jencks Act, the trial court did not abuse its discretion by declining to impose sanctions because the failure to produce the recording was not shown to result from negligence or bad faith, the recording was unlikely to contain a material description of the facts, and the evidence of guilt supported the trial court's decision.
2. The evidence was sufficient because sleeping in the driver's seat of a parked car with the engine idling constitutes operating or being in physical control of the vehicle under D.C. Code § 50-2206.11.
3. D.C. Code § 50-2206.11 is not unconstitutionally vague as applied to Fadul's conduct because the judicially construed terms 'operate' and 'in physical control' provide a comprehensible standard of conduct.

KEY QUOTATIONS

“the choice of a sanction [for a violation] is within the trial court’s discretion, as is the decision whether to impose any sanction at all.” (at 1096)

““operating” in this context “means being in actual physical control of the vehicle, capable of putting the vehicle into movement or preventing its movement.”” (at 1098)

““however, a statute is not unconstitutionally vague even if it requires that a person’s conduct conform to a somewhat amorphous—yet comprehensible—standard; it is unconstitutionally vague only if no standard of conduct is specified at all.”” (at 1100)

FACTUAL BACKGROUND

On October 4, 2012, police officers found Mohamed Fadul sleeping in the front seat of a parked car with the engine idling. The officers observed significant evidence of intoxication and summoned an alcohol-certified officer, who administered three field sobriety tests that Fadul failed. Fadul was arrested and voluntarily provided a urine sample containing 0.22 grams of ethanol per 100 milliliters of urine.

PROCEDURAL HISTORY

Fadul was charged with DUI and operating while impaired. The government dismissed the OWI charge on the day of trial. After a bench trial, the Superior Court found Fadul guilty of DUI. The court declined to sanction the government for failing to produce a police radio recording, and Fadul timely appealed.

DISPOSITION

affirmed

CASES CITED

- Brady v. Maryland, 373 U.S. 83, 87 (1963)
- Miller v. United States, 14 A.3d 1094, 1107 (D.C. 2011)
- Slye v. United States, 602 A.2d 135, 137-38 (D.C. 1992)
- McCraney v. United States, 983 A.2d 1041, 1055 (D.C. 2009)
- Wheeler v. United States, 977 A.2d 973, 988 (D.C. 2009), reh'g granted & opinion modified in other respects, 987 A.2d 431 (D.C. 2010)
- McGriff v. United States, 705 A.2d 282, 287 (D.C. 1997)
- Robinson v. United States, 825 A.2d 318, 331 (D.C. 2003)
- Woodall v. United States, 684 A.2d 1258, 1265 (D.C. 1996)
- Gibson v. United States, 536 A.2d 78, 82-86 (D.C. 1987)
- Blaize v. United States, 21 A.3d 78, 82 (D.C. 2011)
- Maldonado v. District of Columbia, 594 A.2d 88, 89 (D.C. 1991)
- Goines v. United States, 964 A.2d 141, 146 (D.C. 2009)
- Kinane v. United States, 12 A.3d 23, 26 (D.C. 2011)
- Thomas v. United States, 914 A.2d 1, 8-9, 20 (D.C. 2006)
- McNeely v. United States, 874 A.2d 371, 381-82 (D.C. 2005)
- Wainwright v. Stone, 414 U.S. 21, 22-23 (1973)
- Parnigoni v. District of Columbia, 933 A.2d 823, 827 (D.C. 2007)
- Anand v. District of Columbia, 801 A.2d 951, 958 (D.C. 2002)

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