

SUPREME COURT OF NORTH DAKOTA

State v. Hawkins

2017 ND 172 (N.D. 2017) · No. 20160354 · Decided July 12, 2017

SUMMARY

The North Dakota Supreme Court affirmed an order suppressing blood test results in a driving-under-the-influence prosecution. The Court held that sufficient competent evidence supported the district court’s finding that Hawkins’s consent was not voluntary under the totality of the circumstances, while declining to address alleged inaccuracies in the implied consent advisory.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Kapsner, Justice; Carol Ronning Kapsner; Daniel J. Crothers; Jerod E. Tufte; Lisa Fair McEvers; Gerald W. VandeWalle, C.J.
JURISDICTION	North Dakota
DECIDED	July 12, 2017
DOCKET	20160354
DISPOSITION	affirmed
PROCEDURAL POSTURE	The State appealed from an order of the McKenzie County District Court suppressing the results of Hawkins's blood test in a driving-under-the-influence prosecution.
STANDARD OF REVIEW	The Supreme Court defers to the district court's findings of fact and resolves conflicts in testimony in favor of affirmance. It affirms a suppression ruling when sufficient competent evidence supports the findings and the decision is not contrary to the manifest weight of the evidence; questions of law are fully reviewable.
PRECEDENTIAL VALUE	published opinion
PARTIES	State of North Dakota v. John William Hawkins

TOPICS

- suppression of evidence
- fourth amendment
- warrant requirement
- criminal procedure
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the State could appeal the order suppressing the blood-test evidence under N.D.C.C. § 29-28-07(5).
2. Whether sufficient competent evidence supported the district court's finding that Hawkins did not voluntarily consent to the warrantless blood test.
3. Whether the Supreme Court should address any alleged defect in the implied-consent advisory under N.D.C.C. § 39-20-01(3).

HOLDINGS

1. The State could appeal because it filed the required notice of appeal and prosecuting-attorney statement asserting that the appeal was not taken for delay and that the suppressed evidence was substantial proof of a material fact.
2. The district court's finding that Hawkins did not voluntarily consent to the blood test was supported by sufficient competent evidence and was not contrary to the manifest weight of the evidence.
3. The Court declined to address any potential inaccuracy in the officer's delivery of the implied-consent advisory because the district court's voluntariness ruling independently disposed of the suppression issue.

KEY QUOTATIONS

“Consent is voluntary when it is the product of a free and unconstrained choice and not the product of duress or coercion.” (§ 8)

“The district court considered the totality of the circumstances in reaching its factual determination that Hawkins’ consent was not voluntary.” (§ 10)

FACTUAL BACKGROUND

An officer stopped Hawkins after observing erratic driving and administered field sobriety tests, leading the officer to suspect impairment. Hawkins refused an on-site screening test, was arrested and handcuffed, and was placed in the back of a patrol car after being told that refusal to submit was a crime. While in the patrol car, Hawkins stated that he would take a blood test, and after the officer read the implied-consent advisory, Hawkins said yes to chemical testing. His blood was drawn at a hospital, and the district court later found that his consent was not voluntary under the totality of the circumstances.

PROCEDURAL HISTORY

After a traffic stop, arrest, and blood draw, Hawkins moved to suppress the blood-test results, arguing violations of North Dakota's implied-consent statute and the Fourth Amendment. The district court held suppression hearings, including a hearing after the United States Supreme Court's decision in *Birchfield v. North Dakota*, and

suppressed the blood-test results after finding Hawkins's consent involuntary. The State filed the required notice and prosecuting-attorney statement and appealed.

DISPOSITION

affirmed

CASES CITED

- State v. Boehm, 2014 ND 154, ¶ 6, 849 N.W.2d 239
- State v. Emil, 2010 ND 117, ¶ 6, 784 N.W.2d 137
- State v. Odom, 2006 ND 209, ¶ 8, 722 N.W.2d 370
- State v. Graf, 2006 ND 196, ¶ 7, 721 N.W.2d 381
- State v. Torkelsen, 2008 ND 141, ¶ 21, 752 N.W.2d 640
- State v. Schmidt, 2016 ND 187, ¶¶ 23-24, 885 N.W.2d 65
- State v. Albaugh, 2007 ND 86, ¶ 21, 732 N.W.2d 712
- State v. Mitzel, 2004 ND 157, ¶ 10, 685 N.W.2d 120
- State v. Lange, 255 N.W.2d 59, 64 (N.D. 1977)
- Birchfield v. North Dakota, 136 S. Ct. 2160, 195 L. Ed. 2d 560 (2016)