

SUPREME JUDICIAL COURT OF MAINE

State of Maine v. John T. Simons

2017 ME 180 (2017) · No. Yor-16-548 · Decided August 15, 2017

SUMMARY

The Maine Supreme Judicial Court affirmed John T. Simons’s conviction for operating under the influence. The court held that the officer had reasonable articulable suspicion to request field sobriety testing, that testimony concerning the horizontal gaze nystagmus test was properly admitted, and that the evidence was sufficient to support the conviction. The court also found no obvious error in the trial court’s determination that the impaneled jurors were impartial, while disapproving the use of a voir dire question suggesting that defendants should present evidence of innocence.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Per Curiam; Kennebec County, Driscoll, J.; SAUFLEY, C.J.; ALEXANDER, J.; MEAD, J.; GORMAN, J.; JABAR, J.; HJELM, J.
JURISDICTION	Maine
DECIDED	August 15, 2017
DOCKET	Yor-16-548
DISPOSITION	affirmed
PROCEDURAL POSTURE	Simons appealed from a judgment of conviction for operating under the influence following a jury trial.
STANDARD OF REVIEW	The court reviewed factual findings concerning an officer's subjective suspicion for clear error and the objective reasonableness of that suspicion de novo. It reviewed the HGN evidentiary ruling for clear error and abuse of discretion, sufficiency of the evidence in the light most favorable to the State, and juror impartiality for obvious error because Simons did not object to the seated jurors; the conduct of voir dire was reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published Maine Supreme Judicial Court opinion; precedential
PARTIES	John T. Simons v. State of Maine

TOPICS

suppression of evidence

criminal procedure

expert testimony

jury selection

standard of review

PRACTICE AREAS

Criminal law

Criminal procedure

Evidence

Appellate practice

QUESTIONS PRESENTED

1. Whether the officer had reasonable articulable suspicion to ask Simons to exit the vehicle and perform field sobriety tests.
2. Whether the State laid a proper foundation for testimony concerning Simons's horizontal gaze nystagmus test performance.
3. Whether sufficient evidence supported Simons's conviction for operating under the influence.
4. Whether the trial court improperly determined that prospective jurors who initially agreed that an accused should present evidence of innocence were impartial.

HOLDINGS

1. The trial court correctly found that the officer had reasonable articulable suspicion that Simons was impaired, justifying the request that he exit the vehicle and perform field sobriety tests.
2. The trial court properly admitted testimony about Simons's HGN-test performance because the State established that Caldwell was trained in administering the test and that the test was properly administered.
3. The evidence was sufficient for a rational jury to find beyond a reasonable doubt that Simons operated a vehicle while impaired by alcohol.
4. The trial court did not abuse its discretion in conducting voir dire and did not commit obvious error in finding impartial the seated jurors who had initially agreed with an erroneous questionnaire statement about proving innocence.

KEY QUOTATIONS

“The only requirement we have imposed on the reasonable articulable suspicion standard is that an officer’s suspicion be more than mere speculation or an unsubstantiated hunch.” (¶ 12)

“A proper foundation consists of two elements: evidence that the officer who administered the test “is trained in the procedure,” and evidence that “the test was properly administered.”” (¶ 15)

“We note with disapproval the use of a voir dire question that presents an utterly incorrect statement of law and asks jurors to agree or disagree with the policy pronouncement contained therein.” (¶ 22)

FACTUAL BACKGROUND

Officer Gregory Caldwell stopped Simons after observing him accelerate to forty-two miles per hour in a twenty-five-mile-per-hour zone. During the stop, Caldwell observed Simons fumble with his documents, smelled mint and then alcohol from the vehicle and Simons's breath, and learned that Simons had been drinking earlier

that evening. Simons agreed to field sobriety testing, performed poorly on the HGN, walk-and-turn, and one-leg-stand tests, and was arrested for operating under the influence; a later breath-test result was excluded because the observation period was improper.

PROCEDURAL HISTORY

The trial court denied Simons's motion to suppress evidence from the traffic stop, allowed testimony concerning his horizontal gaze nystagmus test performance, and entered judgment after the jury found him guilty. Simons appealed, challenging the suppression ruling, admission of the HGN evidence, sufficiency of the evidence, and juror impartiality. The Supreme Judicial Court of Maine affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Hinkel, 2017 ME 76, ¶ 2, 159 A.3d 854
- State v. Wood, 662 A.2d 919, 920 (Me. 1995)
- State v. King, 2009 ME 14, ¶ 6, 965 A.2d 52
- State v. McPartland, 2012 ME 12, ¶ 13, 36 A.3d 881
- State v. Porter, 2008 ME 175, ¶ 11, 960 A.2d 321
- State v. Sylvain, 2003 ME 5, ¶ 18, 814 A.2d 984
- State v. Nelson, 638 A.2d 720, 722 (Me. 1994)
- State v. Taylor, 1997 ME 81, ¶¶ 10, 12-13, 694 A.2d 907
- State v. Atkins, 2015 ME 162, ¶¶ 1, 20-21 n.5, 129 A.3d 952
- State v. Soucy, 2012 ME 16, ¶ 10, 36 A.3d 910
- State v. McCurdy, 2002 ME 66, ¶¶ 10-11, 795 A.2d 84
- State v. Fay, 2015 ME 160, ¶ 7, 130 A.3d 364
- State v. Holland, 2009 ME 72, ¶ 49, 976 A.2d 227
- State v. Logan, 2014 ME 92, ¶ 16, 97 A.3d 121
- State v. Lovejoy, 2014 ME 48, ¶ 19, 89 A.3d 1066
- State v. DePhilippo, 628 A.2d 1057, 1059 (Me. 1993)
- State v. Rollins, 2008 ME 189, ¶ 12, 961 A.2d 546
- State v. Dyer, 2007 ME 118, ¶ 15, 930 A.2d 1040
- Grover v. Boise Cascade Corp., 2004 ME 119, ¶ 20, 860 A.2d 851

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